MONTANA LEGISLATIVE HISTORY

Chapter 767 1991

Bill H _____ SB 17 Original bill & history ✓ C

H. Committee on Ed & Cultural Resource			S. Committee on Ed & Cultural Res.		
Hearing Date(s)	3/14	C	Hearing Date(s)	1/11	C
✓	4/02	C	✓	2/07	C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

S/Free Conference Committee 4/25

H/Free Conference Committee 4/25

	REPORT NO. 1 ADOPTED	49	0
	HOUSE		
4/18	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		
4/23	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	90	9
4/24	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	95	5
5/03	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 798 EFFECTIVE DATE: 10/01/91		

SB 17 INTRODUCED BY BLAYLOCK

GENERALLY REVISE SCHOOL LAWS TO COMPLY WITH SCHOOL FUNDING REFORMS

BY REQUEST OF SCHOOL FUNDING IMPLEMENTATION, LEGISLATIVE OVERSIGHT COMMITTEE ON

12/27	INTRODUCED		
12/28	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/07	FIRST READING		
1/11	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/08	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/11	FISCAL NOTE PRINTED		
2/12	2ND READING PASSED	49	0
2/13	3RD READING PASSED	47	0
	TRANSMITTED TO HOUSE		
2/14	FIRST READING		
2/14	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/14	HEARING		
3/18	REVISED FISCAL NOTE PRINTED		
4/02	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/05	2ND READING CONCURRED AS AMENDED	92	4
4/06	3RD READING CONCURRED	93	5
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	49	0
4/18	TAKEN FROM 3RD READING AND PLACED ON 2ND READING		
4/19	2ND READING AMENDMENTS NOT CONCURRED	49	0
4/23	CONFERENCE COMMITTEE APPOINTED		
4/25	CONFERENCE COMMITTEE DISSOLVED		
4/25	FREE CONFERENCE COMMITTEE APPOINTED		
4/25	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/29	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/30	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0
	HOUSE		
4/23	CONFERENCE COMMITTEE APPOINTED		
4/25	CONFERENCE COMMITTEE DISSOLVED		
4/25	FREE CONFERENCE COMMITTEE APPOINTED		
4/25	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/25	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	93	7
4/25	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	92	8

5/03	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 767		
	EFFECTIVE DATE: 05/15/91 - SECTIONS 1-46, 48-54, AND 56-60		
	EFFECTIVE DATE: 07/01/91 - SECTION 55		
	EFFECTIVE DATE: 07/01/93 - SECTION 47		

SB 18 INTRODUCED BY GAGE

REVISE OIL AND GAS LAWS; AUTHORIZE CERTAIN POOLING AND UNIT AGREEMENTS

12/27	INTRODUCED		
12/28	REFERRED TO TAXATION		
12/28	FISCAL NOTE REQUESTED		
1/07	FIRST READING		
1/07	FISCAL NOTE RECEIVED		
1/07	FISCAL NOTE PRINTED		
1/11	HEARING		
1/11	REREFERRED TO NATURAL RESOURCES		
1/18	HEARING		
1/24	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/25	2ND READING PASSED	49	0
1/26	3RD READING PASSED	46	0
	TRANSMITTED TO HOUSE		
1/26	FIRST READING		
1/26	REFERRED TO TAXATION		
2/01	REREFERRED TO NATURAL RESOURCES		
2/11	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	80	4
3/18	3RD READING CONCURRED	94	4
	RETURNED TO SENATE WITH AMENDMENTS		
3/23	2ND READING AMENDMENTS NOT CONCURRED	47	0
3/28	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE REPORT NO. 1		
4/23	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/24	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
	HOUSE		
4/03	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE REPORT NO. 1		
4/23	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	91	1
4/23	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	94	3
4/25	SIGNED BY PRESIDENT		
4/29	SIGNED BY SPEAKER		
4/29	TRANSMITTED TO GOVERNOR		
5/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 734	EFFECTIVE DATE: 10/01/91	

SB 19 INTRODUCED BY JERGESON

REQUIRE CONTRACT FOR PRICE PRIOR TO TITLE TRANSFER ON AGRICULTURAL COMMODITY

12/26	INTRODUCED
12/28	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.
1/07	FIRST READING
1/11	HEARING

SENATE BILL NO. 17

INTRODUCED BY BLAYLOCK
BY REQUEST OF THE LEGISLATIVE OVERSIGHT
COMMITTEE ON SCHOOL FUNDING IMPLEMENTATION

IN THE SENATE

DECEMBER 28, 1990	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
JANUARY 7, 1991	FIRST READING.
FEBRUARY 7, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 8, 1991	PRINTING REPORT.
FEBRUARY 9, 1991	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 11, 1991	ON MOTION, CONSIDERATION PASSED TO PREPARE AN AMENDMENT.
FEBRUARY 12, 1991	SECOND READING, DO PASS.
FEBRUARY 13, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 13, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
FEBRUARY 14, 1991	FIRST READING.
APRIL 2, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 5, 1991	SECOND READING, CONCURRED IN AS AMENDED.
APRIL 6, 1991	THIRD READING, CONCURRED IN. AYES, 93; NOES, 5.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 9, 1991 — RECEIVED FROM HOUSE.

ON MOTION, CONSIDERATION PASSED UNTIL THE 76TH LEGISLATIVE DAY

APRIL 17, 1991 — SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 18, 1991 — ON MOTION, TAKEN FROM THIRD READING AND PLACED ON SECOND READING.

APRIL 19, 1991 — SECOND READING, AMENDMENTS NOT CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE REQUESTED.

APRIL 23, 1991 — CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 23, 1991 — ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

APRIL 25, 1991 — ON MOTION, CONFERENCE COMMITTEE DISSOLVED.

IN THE SENATE

APRIL 25, 1991 — ON MOTION, CONFERENCE COMMITTEE DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

FREE CONFERENCE COMMITTEE REPORTED.

IN THE HOUSE

APRIL 25, 1991 — ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 29, 1991 — SECOND READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE

COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 17

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE LEGISLATIVE OVERSIGHT

COMMITTEE ON SCHOOL FUNDING IMPLEMENTATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE SCHOOL LAW IN COMPLIANCE WITH NEW SCHOOL FUNDING PROVISIONS AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR SCHOOL DISTRICTS; TO ALLOW A DISTRICT TO AMEND THE ADOPTED GENERAL FUND BUDGET AND TO EXCEED ANY APPLICABLE BUDGET LIMITATION IN CERTAIN CIRCUMSTANCES; TO ALLOW SCHOOL DISTRICTS TO TRANSPORT PRESCHOOL SPECIAL EDUCATION STUDENTS; TO LIMIT STATE TRANSPORTATION REIMBURSEMENT TO 180 PUPIL-INSTRUCTION DAYS; TO ADJUST THE SCHOOL DISTRICT BONDING LIMITATION TO COMPENSATE FOR CHANGES IN DISTRICT TAXABLE VALUATION; AMENDING SECTIONS 15-24-1402, 20-3-106, 20-3-205, 20-3-324, 20-5-307, 20-5-312, 20-7-713, 20-9-104, 20-9-141, 20-9-142, 20-9-145, 20-9-161, 20-9-162, 20-9-163, 20-9-164, 20-9-165, 20-9-166, 20-9-201, 20-9-206, 20-9-208, 20-9-209, 20-9-210, 20-9-214, 20-9-221, 20-9-231, 20-9-301, 20-9-315, 20-9-321, 20-9-344, 20-9-353, 20-9-360, 20-9-361, 20-9-366, 20-9-367, 20-9-368, 20-9-406, 20-9-435, 20-9-438, 20-9-439, 20-9-471, 20-9-501, 20-9-504, 20-9-505, 20-9-507, 20-10-101, 20-10-143, 20-10-144, 20-10-145, AND 20-15-404, MCA; REPEALING SECTIONS 15-10-103, 20-9-111, AND 20-9-167, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of the state, and he shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

(5) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of 20-6-311;

(6) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

INTRODUCED BILL
SB 17

(7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

(8) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;

(9) establish a system of communication for calculating joint district revenues in accordance with the provisions of 20-9-151;

(10) approve or disapprove the adoption of a district's ~~emergency~~ budget amendment resolution under the conditions prescribed in 20-9-163 and ~~publish~~ adopt rules for an application for additional state aid for ~~an emergency~~ a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

(11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

(12) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

(13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the

provisions of 20-9-313 and 20-9-314;

(14) distribute state equalization aid in support of the foundation program and guaranteed tax base aid, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366 through 20-9-369;

(15) distribute state impact aid in accordance with the provisions of 20-9-304;

(16) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

(17) approve or disapprove an adult education program for which a district proposes to levy a tax in accordance with the provisions of 20-7-705;

(18) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;

(19) authorize the use of federal money for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

(20) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

(21) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of 20-1-303 and 20-1-304;

(22) recommend standards of accreditation for all

schools to the board of public education and evaluate compliance with the standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

(23) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

(24) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of 20-7-201;

(25) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

(26) as the governing agent and executive officer of the state of Montana for K-12 vocational education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

(27) supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

(28) administer the traffic education program in accordance with the provisions of 20-7-502;

(29) administer the school food services program in accordance with the provisions of 20-10-201, 20-10-202, and 20-10-203;

(30) review school building plans and specifications in accordance with the provisions of 20-6-622;

(31) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of 20-1-408;

(32) provide schools with information and technical assistance for compliance with the student assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for the board of public education and the legislature;

(33) administer the distribution of guaranteed tax base aid for county retirement levy obligations in accordance with 20-9-366 through 20-9-369; and

(34) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

Section 2. Section 20-3-205, MCA, is amended to read:

"**20-3-205. Powers and duties.** The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

(1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(2) administer and file the oaths of members of the

boards of trustees of the districts in his county in accordance with the provisions of 20-3-307;

(3) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(4) act on each tuition application submitted to him in accordance with the provisions of 20-5-301, 20-5-302, 20-5-304, and 20-5-311 and transmit the tuition information required by 20-5-312;

(5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(7) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of 20-6-103;

(8) fulfill all responsibilities assigned to him under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(9) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(10) estimate the average number belonging (ANB) of an

opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(11) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and ~~emergency--budgets~~ budget amendments, and fulfill ~~such~~ other responsibilities assigned to him under the provisions of this title regulating school budgeting systems;

(13) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

(14) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-334, 20-9-347, 20-10-145, or 20-10-146;

(15) act on any request to transfer average number belonging (ANB) in accordance with the provisions of 20-9-313(3);

(16) calculate the estimated budgeted general fund sources of revenue in accordance with the provisions of 20-9-348 and the other general fund revenue provisions of the general fund part of this title;

(17) compute the revenues and the district and county

levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(18) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(19) for districts ~~which~~ that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(20) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(21) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(22) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public

instruction;

(23) administer the oath of office to trustees without the receipt of pay for administering the oath;

(24) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to his successor;

(25) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(a) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(b) the total receipts that were realized in each fund maintained by the district;

(c) the total expenditures that were made from each fund maintained by the district; and

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(26) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed."

Section 3. Section 20-3-324, MCA, is amended to read:

"**20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or **an emergency** a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, foundation program, permissive, additional levy, **cash** operating reserve, and state impact aid **amount** amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer,

and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund, and interlocal cooperative agreement fund in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, vocational education, and special education parts of this title;

(18) establish and maintain the school food services of the district in accordance with the provisions of the school

food services parts of this title;

(19) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(20) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to his child;

(21) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

(22) procure and display outside daily in suitable weather at each school of the district an American flag that measures not less than 4 feet by 6 feet;

(23) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110; and

(24) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education,

or the rules of the superintendent of public instruction."

Section 4. Section 20-5-307, MCA, is amended to read:

"**20-5-307. Budgeting, levy requirement, and paying elementary tuition.** (1) The tuition amount that has been established in 20-5-305 ~~shall~~ must be paid during the ensuing school fiscal year. The trustees of the elementary district shall include ~~such~~ the amount in the tuition fund of the preliminary budget. If the trustees should fail to include ~~such~~ the amount or any portion of it in the preliminary budget, they shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. ~~Such~~ The adjustment ~~shall--not--be~~ is not subject to the budget adjustment provisions of 20-9-132.

(2) The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the second Monday of August, and a levy on the district ~~shall~~ must be made by the county commissioners in accordance with 20-9-142. ~~Such~~ The levy requirement ~~shall~~ must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the ~~cash~~ fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated ~~moneys~~ money that may be realized in the tuition fund.

(3) The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of 20-5-306. At least one-half of the payments must be made in December, and the remaining payments must be made by June 15 of the fiscal year.

(4) Any unanticipated tuition receipts for the current school fiscal year must be deposited in the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget and used in the manner provided for in 20-9-141."

Section 5. Section 20-5-312, MCA, is amended to read:

"**20-5-312. Reporting, budgeting, and payment for high school tuition.** (1) Except as provided in subsection (2), at the close of the school term of each school fiscal year, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the actual expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (1)(a) above by the ANB of the district as determined under the provisions of 20-9-311; and

(c) subtracting from the amount determined in subsection (1)(b) the per-ANB amount allowed by the foundation program schedules and the per-ANB amount of guaranteed tax base aid as provided in 20-9-366 through 20-9-369.

(2) The tuition for a full-time high school special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time high school special education pupils as designated in 20-9-311 for funding purposes.

(3) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, have the authority to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(4) When the county superintendent receives a tuition report from a district, he shall immediately send the

reported information to the superintendent of each district in which the reported pupils reside.

(5) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved tuition agreements, he shall determine the total amount of tuition due the out-of-district high schools on the basis of the following per-pupil schedule: the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided by each high school district where resident district pupils have attended school.

(6) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a high school outside the county of residence must be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent shall cause the payment by county warrant of at least one-half of the high school tuition obligations established under this section out of the first money realized from the county basic special tax for high schools. The remaining obligations must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer of the county where each high school entitled to tuition is located. ~~The~~ Except as provided in subsection (8), the

county treasurer shall credit tuition receipts to the general fund of the applicable high school district, and the tuition receipts must be used in accordance with the provisions of 20-9-141.

(7) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall report the net tuition fund levy requirement for each high school district to the county commissioners on the second Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the ~~cash~~ fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's

notification. Payments must be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer.

(8) Any unanticipated tuition receipts for the current school fiscal year must be deposited in the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget and used in the manner provided for in 20-9-141."

Section 6. Section 20-7-713, MCA, is amended to read:

"**20-7-713. Adult basic education fund ~~cash~~ operating reserve.** At the end of each school fiscal year, the trustees of ~~any~~ a school district that operates an adult basic education program may designate ~~what~~ the portion of the adult basic education fund end-of-the-year ~~cash~~ fund balance that is to be earmarked as ~~cash~~ operating reserve for the purpose of paying, whenever a cash flow shortage occurs, adult basic education fund warrants issued by the district

from July 1 through June 30 of the ensuing school fiscal year. The amount of the adult basic education fund cash balance that is earmarked as cash operating reserve may not exceed 35% of the final adult basic education fund budget for the ensuing school fiscal year."

Section 7. Section 20-9-104, MCA, is amended to read:

"**20-9-104. General fund cash operating reserve.** (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year cash fund balance that is to be earmarked as cash operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (3) and (4), the amount of the general fund cash balance that is earmarked as cash operating reserve may not exceed the following percentages of the final general fund budget for the ensuing school fiscal year:

(a) 35% for a district that did not receive state equalization aid during the current school fiscal year;

(b) 30% for a district that received state equalization aid equal to 25% or less of its foundation program schedule entitlement in the current school fiscal year; and

(c) 20% for a district that received state equalization aid equal to more than 25% of its foundation program schedule entitlement in the current school fiscal year.

(2) The amount held as cash operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts. Any portion of the general fund end-of-the-year cash fund balance that is not earmarked for cash operating reserve purposes is cash reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

(3) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) any amount received during the current school fiscal year under Public Law 81-874;

(b) the unused balance of any amount received in settlement of tax payments protested prior to July 1, 1990; or

(c) any amount received as a general bonus payment under 20-6-401.

(4) The limitation of subsection (1) does not apply when the amount earmarked as cash operating reserve is $10,000 or less."

Section 8. Section 20-9-141, MCA, is amended to read:

"**20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following

procedure:

(a) Determine the funding required for the district's final general fund budget less the amount established by the schedules in 20-9-316 through 20-9-321 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303; and

(ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-145 and 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund **cash** balance reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(vi) anticipated net proceeds taxes for interim production and new production, as defined in 15-23-601;

(vii) anticipated revenue from local government severance taxes as provided in 15-36-112;

(viii) anticipated revenue from coal gross proceeds under 15-23-703;

(ix) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4);

(x) anticipated revenue from corporation license taxes collected from financial institutions under the provisions of 15-31-702; and

(xi) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year **which** that may be used to finance the general fund, excluding any guaranteed tax base aid.

(c) **Subtract** Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from ~~the total requirement determined in subsection (1)(a)~~, any additional general fund budget amount adopted by the trustees of the

district as the permissive amount under the provisions of 20-9-145 to determine the general fund permissive net levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional funding requirement to be met by a district levy as provided in 20-9-303 and 20-9-353 to determine the additional general fund levy requirement.

(2) (a) For a district that is eligible for guaranteed tax base aid under the provisions of 20-9-367, the county superintendent shall provide the board of county commissioners with the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction, to fund the general fund permissive net levy requirement.

(b) The county commissioners shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund permissive net levy requirement by dividing the amount determined in subsection (1)(c) by the sum of:

(i) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(ii) the taxable valuation of the district divided by 1,000.

~~(2)~~(3) The net general fund levy requirement determined in ~~subsection (1)(c)~~ subsections (1)(c) and (1)(d) must be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund permissive net levy requirement and the additional general fund levy requirement for the district, and a levy must be ~~made~~ set by the county commissioners in accordance with 20-9-142."

Section 9. Section 20-9-142, MCA, is amended to read:

"**20-9-142. Fixing and levying taxes by board of county commissioners.** On the second Monday in August, the county superintendent shall place before the board of county commissioners the final adopted budget of the district ~~and any emergency budget adopted by the district during the previous school fiscal year~~. It ~~shall be~~ is the duty of the board of county commissioners to fix and levy on all the taxable value of all the real and personal property within the district all district and county taxation required to finance, within the limitations provided by law, the final budget ~~and any emergency budget of the district~~."

Section 10. Section 20-9-145, MCA, is amended to read:

"**20-9-145. ~~Overschedule permissive~~ Permissive amount of general fund budget -- permissive levy.** Whenever the trustees of ~~any~~ a district determine it necessary to adopt a general fund budget in excess of the foundation program

amount for that district, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. This amount is the "permissive amount" and may not exceed ~~{the--equivalent--of the--percent--to--be--determined--that--is--112%--of-FY-1988 district-general-fund-and-insurance-fund--expenditures}~~ 35% of the foundation program amount. It must be financed by ~~the district--and--established-as-provided-in-20-9-142~~ a levy on the taxable value of all property within the district, by any guaranteed tax base aid for which the district may be eligible, and by other revenue available to the district for other than foundation program support."

Section 11. Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of ~~emergency~~ budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term ~~"emergency"~~ "budget amendment" for the purpose of school budgeting ~~shall be~~ means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district ~~over-the-immediately--preceding--school fiscal-year-which~~ that is:

(a) at least 6% more than the enrollment of the preceding school fiscal year; and

(b) beyond what could reasonably have been anticipated

at the time of the adoption of the budget for the ~~then-current~~ current school fiscal year whenever, because of ~~such~~ the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or ~~any~~ act of God, to ~~such~~ an extent ~~as--to--render--such~~ rendering school property unfit for its present school use;

(3) a judgment for damages against the district ~~rendered~~ issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district; ~~or~~

(5) receipt of settlement of taxes protested in a prior school fiscal year and a determination by the trustees that it is necessary to expend all or a portion of the settlement amount for a project or projects that were deferred from a previous general fund budget of the district as a result of the protested taxes; or

~~{5}~~(6) any other ~~reason--of-similar-consequences-that has--been--approved--by---the---superintendent---of---public~~

~~instruction-upon-petition-by-the-trustees-of-the-district-or by--the--board-of-regents-upon-petition-by-the-trustees-of-a community-college-district~~ unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting the safety of the students and district employees or the educational functions of the district."

Section 12. Section 20-9-162, MCA, is amended to read:

"**20-9-162. Authorization for emergency budget** amendment **adoption. Emergency---budgets** (1) Notwithstanding the provisions of subsections (2) and (3), a budget amendment may be adopted at any time of the school fiscal year, except that **emergency-budgets** a budget amendment required by an enrollment increase that could not have been anticipated at the time of the adoption of the regular budget as provided in 20-9-161(1) may not be adopted until after ~~December 31~~ October 1.

(2) If a budget amendment for the reasons provided in 20-9-161(1) through (4) does not cause the district general fund budget to exceed the limitations in 20-9-315, the trustees may approve expenditures within the budget amendment by a resolution as provided in 20-9-163. The trustees shall send a copy of the resolution to the superintendent of public instruction.

(3) The trustees shall submit the following to the

superintendent of public instruction for approval in the manner provided in 20-9-163:

(a) a budget amendment for the reasons provided in 20-9-161(5) and (6); and

(b) a budget amendment for any reason provided in 20-9-161(1) through (4) that causes the district general fund budget to exceed the limitations in 20-9-315."

Section 13. Section 20-9-163, MCA, is amended to read:

"**20-9-163. Resolution for emergency budget** amendment **-- petition to superintendent of public instruction or--to--the board---of---regents.** (1) **Whenever** Notwithstanding the provisions of subsection (3), whenever the trustees of **any** a district decide that **an-emergency-exists** a budget amendment is necessary, they may adopt a resolution proclaiming **such emergency** the budget amendment by a **unanimous** majority vote of ~~all-members-present-at-any-meeting-for-which-each-trustee has--been--given--reasonable-notice-of-the-time-and-place-of holding-such-meeting~~ the trustees. The **emergency** budget amendment resolution ~~shall~~ must also state the facts constituting the **emergency** need for the budget amendment, the estimated amount of money required to ~~meet-the-emergency~~ fund the budget amendment, the funds affected by ~~the~~ **e:ergency** the budget amendment, and the time and place **when** the board will meet for the purpose of considering and adopting **an-emergency** a budget amendment for **such** funds for

the current school fiscal year.

(2) If the trustees ~~decide that an emergency exists for any reason other than the conditions specified in subsections (1), (2), (3), or (4) of 20-9-161, they shall petition the superintendent of public instruction or, in the case of a community college district, the board of regents for permission to adopt a resolution of emergency. Such petition shall set forth in writing the reasons for the request, the district funds affected by the emergency, the estimated amount of money required to meet such emergency for each affected fund, the anticipated sources of financing for the emergency expenditures, and such other information as may be required by the superintendent of public instruction or the board of regents. The petition shall be signed by each trustee.~~ of a school district determine that the proposed budget amendment will cause the district general fund to exceed the limitations of 20-9-315, the trustees shall petition the superintendent of public instruction for permission to adopt a resolution for a budget amendment. The petition must set forth in writing the reasons for the request, the district funds affected by the budget amendment, the estimated amount of money required for the budget amendment for each affected fund, the anticipated sources of financing for the budget amendment expenditures, and any other information required by the superintendent of

public instruction. The petition must be signed by a majority of the trustees.

(3) The superintendent of public instruction ~~or, in the case of a community college district, the board of regents~~ shall promptly approve or disapprove the petition requesting approval to adopt a resolution ~~of emergency~~ for a budget amendment. If the petition is approved, the trustees may ~~then~~ adopt a resolution ~~of emergency~~ for a budget amendment and ~~may subsequently~~ take all other steps required for the adoption of ~~an emergency~~ a budget amendment. Approval of a petition by the superintendent of public instruction ~~or the board of regents shall merely authorize~~ authorizes the board of trustees to initiate ~~emergency~~ a budget ~~proceedings~~ amendment by resolution and ~~shall~~ does not relieve the trustees of the necessity of complying with the requirements of the school ~~emergency~~ budgeting laws. Approval of the petition ~~shall~~ may not be construed as approval of any subsequent application for increased state aid on account of ~~such emergency~~ the budget amendment."

Section 14. Section 20-9-164, MCA, is amended to read:

"20-9-164. Notice of ~~emergency~~ budget amendment resolution. A copy of the ~~emergency~~ budget amendment resolution ~~shall~~ must be published one time in a newspaper that will give notice to the largest number of people of the district as determined by the trustees, and a copy of the

resolution ~~shall~~ must be posted at each schoolhouse of the district. A copy of the ~~emergency~~ budget amendment resolution ~~shall~~ must also be delivered to the county superintendent and to the county clerk as the clerk of the board of county commissioners of the county. The publication, posting, and delivery of the resolution ~~shall~~ must be done not less than 1 week before the day specified in the resolution for the consideration and adoption of ~~an emergency~~ a budget amendment."

Section 15. Section 20-9-165, MCA, is amended to read:

"**20-9-165. ~~Emergency-----budget~~ Budget amendment limitation, preparation, and adoption procedures.** (1) The meeting of the trustees to consider and adopt ~~an emergency~~ a budget ~~shall~~ amendment must be open to the public, and any taxpayer in the district ~~shall have~~ has the right to appear and be heard. If at ~~such a~~ the meeting a majority of the trustees present ~~shall~~ find that ~~an emergency--exists~~ there is sufficient need for a budget amendment, the trustees may make and adopt a preliminary ~~emergency~~ budget amendment, on the regular budget form, setting forth fully the facts constituting the ~~emergency~~ need for the budget amendment. In adopting the preliminary ~~emergency~~ budget amendment, the trustees may budget for any fund ~~which~~ that was included on the final budget of the district for the current school fiscal year. The budget ~~shall~~ must be itemized to show the

amount appropriated for each item as required on the budget form.

(2) When the ~~emergency~~ budget amendment is ~~due to any increase~~ the result of increased enrollment, the maximum amount of the ~~emergency~~ budget amendment for all funds ~~shall~~ must be determined in the following manner:

(a) Determine the total amount in the final budget for the current school fiscal year of all funds affected by the ~~emergency~~ enrollment increase, less any amounts appropriated as capital outlay and any amount appropriated for addition to the ~~cash~~ operating reserve.

(b) Divide the amount determined in subsection (2)(a) by the number of pupils originally enrolled in ~~such~~ the district during the immediately preceding school fiscal year. The resulting cost per pupil ~~shall constitute~~ is the maximum permissible per-pupil expenditure in the ~~emergency~~ budget amendment.

(c) Determine the enrollment increase of the current school fiscal year by subtracting the number of pupils originally enrolled during the immediately preceding school fiscal year from 106% of the number of pupils enrolled for the current school year. The result ~~shall be~~ is the enrollment increase for the current school fiscal year.

(d) Multiply the cost per pupil determined in subsection (2)(b) by the enrollment increase determined in

subsection (2)(c). The result ~~shall--be~~ is the maximum limitation on ~~an--emergency~~ a budget amendment for ~~emergencies~~ amendments ~~due-to-an-increase-of~~ resulting from increased enrollment.

~~(c)--In-the-case-of-a--community--college--district,--by budget-amendment.~~

(3) ~~In--the--event--of--any-other-type-of-emergency~~ For other types of budget amendments, the budget ~~shall--be~~ amendment is limited, ~~by--those~~ to the expenditures ~~deemed~~ considered by the trustees to be reasonable and necessary to finance the ~~stated~~ conditions of the ~~emergency~~ budget amendment and the preliminary ~~emergency~~ budget ~~shall~~ amendment must ~~be--accompanied-with~~ include the details of the proposed expenditures.

(4) Whenever the trustees adopt a preliminary ~~emergency~~ budget amendment for the transportation fund, the trustees shall attach to ~~such~~ the budget amendment a copy of each transportation contract ~~which~~ that is connected with the ~~emergency~~ budget amendment and ~~which~~ that has been prepared and executed in accordance with the school transportation contract laws.

(5) After the trustees have adopted the ~~emergency~~ budget amendment by a majority vote of the trustees, it ~~shall~~ must be signed by the chairman of the trustees and the clerk of the district and copies ~~shall~~ must be sent to the

county superintendent, the county treasurer, and the superintendent of public instruction. ~~In--the--case--of--a community--college--district,-copies-of-the-emergency-budget shall-be-sent--to--the--county--superintendent,--the--county treasurer,-and-the-board-of-regents.~~"

Section 16. Section 20-9-166, MCA, is amended to read:

"20-9-166. ~~State financial aid for emergency-budgets~~ budget amendments. Whenever a final ~~emergency~~ budget amendment has been adopted for the general fund or the transportation fund to finance the cost of an ~~emergency~~ amendment ~~due--to-an~~ resulting from increased enrollment or any other reason approved by the superintendent of public instruction under the provisions of 20-9-163, the trustees may apply to the superintendent of public instruction for an increased payment from the state public school equalization aid account for the foundation program or for state transportation reimbursement, or both. The superintendent of public instruction shall ~~publish~~ adopt rules for ~~such~~ the application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with this section. When the superintendent of public instruction approves an application, he shall determine the additional amount of state aid from the state public school equalization aid account or the state transportation reimbursement ~~which~~ that

will be made available to the applicant district because of the ~~emergency-caused--by--an~~ increase in enrollment. The superintendent of public instruction shall notify the applicant district of his approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse ~~such-emergency~~ the state aid to the eligible district at the time the next regular state aid payment is made."

Section 17. Section 20-9-201, MCA, is amended to read:

"**20-9-201. Definitions and application.** (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law or by the superintendent of public instruction under the provisions of subsection (2). Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend money from the fund. The general fund, transportation fund, bus depreciation reserve fund, ~~elementary~~ tuition fund, retirement fund, debt service fund, ~~leased--facilities-fund,~~ building reserve fund, adult education fund, nonoperating fund, and any other funds so designated by the legislature are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend money on deposit in the fund. The school food services fund, miscellaneous ~~federal~~ programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, extracurricular fund, metal mines tax reserve fund, endowment fund, and any other funds so designated by the legislature are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district ~~except--the-extracurricular-money-realized from-pupil-activities~~. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. He The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) Except as otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to the general fund if the fund does not have a cash or fund

balance deficit."

Section 18. Section 20-9-206, MCA, is amended to read:

"**20-9-206. Entering appropriations on accounting records of county treasurer.** (1) When the county treasurer receives the final budgets of the districts from the county superintendent, he shall open a fund for each budgeted fund included on the final budget of each district by entering the amount appropriated for the fund on his accounting record.

(2) Whenever the county treasurer receives a final ~~emergency~~ budget amendment for a district from the county superintendent, he shall increase the amount of the regularly adopted final budget by the amount of ~~the emergency-budgeted-fund included--on~~ the final ~~emergency~~ budget amendment."

Section 19. Section 20-9-208, MCA, is amended to read:

"**20-9-208. Transfer among appropriation items of a fund.** (1) Whenever it appears to the trustees of ~~any~~ a district that the appropriated amount of ~~any~~ an item of a budgeted fund of the final budget or ~~the-emergency~~ a budget amendment is in excess of the amount actually required during the school fiscal year for ~~such~~ the appropriation item, the trustees may transfer any or all of the excess appropriation amount to any other appropriation item of the same budgeted fund.

(2) ~~Such-transfers-shall~~ Transfers may not be made between different funds of the same district or between similar funds of different districts except as specifically provided by this title. The trustees shall enter the authorized transfers upon the permanent records of the district."

Section 20. Section 20-9-209, MCA, is amended to read:

"**20-9-209. Lapse of budgeted appropriations and provision for unpaid claims.** (1) All appropriations for a budgeted fund in the regular ~~or-emergency~~ budget or for a budget amendment for a given school fiscal year ~~shall~~ lapse on the last day of ~~such~~ the school fiscal year except the appropriations for:

(a) uncompleted improvements in progress of construction; and

(b) ~~any~~ an obligation for the purchase of personal property ordered but not paid for during the current fiscal year and recorded with the county treasurer in the manner and on forms prescribed by the superintendent of public instruction.

(2) ~~Any~~ A lawful claim presented to the district for payment under a lapsed appropriation ~~shall--be~~ is an obligation of the budget for the next ensuing school fiscal year."

Section 21. Section 20-9-210, MCA, is amended to read:

"20-9-210. Expenditure limitation ~~and cash retention~~ of nonbudgeted fund. The expenditure limitation, at any time during the school fiscal year, for a nonbudgeted fund ~~shall~~ be is the amount of cash balance of ~~such~~ the nonbudgeted fund. ~~The cash balance of a nonbudgeted fund shall remain to the credit of such nonbudgeted fund from year to year unless a transfer is specifically authorized by this title.~~"

Section 22. Section 20-9-214, MCA, is amended to read:

"20-9-214. Fees. (1) The trustees of ~~any~~ a district may:

(a) require pupils in the commercial, industrial arts, music, domestic science, scientific, or agricultural courses to pay reasonable fees to cover the actual cost of breakage and of excessive supplies used; and

(b) charge pupils a reasonable fee for ~~any~~ a course or activity not reasonably related to a recognized academic and educational goal of the district or ~~any~~ a course or activity held outside normal school functions. The trustees may waive the fee in cases of financial hardship.

(2) The fees collected pursuant to ~~subsection (1) shall~~ be subsection (1)(a) must be deposited in the general fund, and the fees collected pursuant to subsection (1)(b) must be deposited in a nonbudgeted fund as provided in 20-9-210."

Section 23. Section 20-9-221, MCA, is amended to read:

"20-9-221. Procedure for issuance of warrants. (1) The

trustees of each district shall issue all warrants, and the warrants ~~shall~~ must identify:

(a) the budgeted fund or nonbudgeted fund on which the warrant is drawn; and

(b) the warrant as ~~an emergency~~ a budget amendment warrant if it is drawn on ~~an emergency~~ a budget amendment.

(2) ~~Any warrant~~ All warrants issued by a district ~~shall~~ must be countersigned by the chairman of the trustees and the clerk of the district before the ~~warrant shall be~~ warrants are negotiable. Facsimile signatures may be used in accordance with the provisions of 2-16-114. A facsimile signature device used under authority of this section ~~must~~ may not be available to the other countersigner of the warrant, or the device must have a nonresettable metering control that can provide a positive reconciliation between the number of warrants issued and the number of signatures applied. Either split signature plates or a double signature plate may be used according to the requirements of the district. The signature plates and the device keys must be kept secure by the district clerk under the supervision of the board of trustees of the district.

(3) The trustees shall issue warrants in single copy or in triplicate copy. When the warrants are issued in single copy, the trustees shall immediately provide a listing of the issued warrants on a fund-by-fund basis to the county

treasurer and retain a copy of the listing in the district accounting records. When the warrants are issued in triplicate, the original copy of the warrant ~~shall~~ must be delivered to the payee, the duplicate ~~shall~~ must be sent immediately to the county treasurer, and the triplicate ~~shall~~ must be retained by the district for accounting record purposes. The duplicate and triplicate copies ~~shall~~ must be identified on the face of the warrant as "Not Negotiable--Copy of Original".

(4) However, the trustees may elect to issue warrants in payment of wages and salaries on a direct deposit basis to the employee's account in a local bank, provided the consent of the employee has been obtained and the employee is given an itemized statement of payroll deductions for each pay period."

Section 24. Section 20-9-231, MCA, is amended to read:

"**20-9-231. Metal mines tax reserve ~~account~~ fund.** (1) The governing body of a local school district receiving tax collections under 15-37-117(1)(d) may establish a metal mines tax reserve ~~account~~ fund to be used to hold the collections. The governing body may hold money in the ~~account~~ fund for any time period ~~deemed~~ considered appropriate by the governing body. Money held in the ~~account~~ fund may not be considered as ~~cash~~ fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the ~~account~~ fund for any purpose provided by law.

(3) Money in the ~~account~~ fund must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve ~~account~~ fund must be credited to the ~~account~~ fund.

(4) The fund must be financially administered as a nonbudgeted fund under the provisions of this title."

Section 25. Section 20-9-301, MCA, is amended to read:

"**20-9-301. Purpose of foundation program and definition of general fund budget.** (1) A uniform system of free public schools sufficient for the education of and open to all school age children of the state must be established and maintained throughout the state of Montana. The state shall aid in the support of its ~~several~~ school districts on the basis of their financial need as measured by the foundation program and in the manner established in this title.

(2) The principal budgetary vehicle for achieving the minimum financing as established by the foundation program is the general fund budget of the district. The purpose of the general fund budget is to finance those general maintenance and operational costs of a district not financed by other funds established for special purposes in this title.

(3) The amount of the general fund budget for each

school fiscal year may not exceed the financing limitations established by this title but may not be less than the amount established by law as the foundation program. The general fund budget must be financed by the foundation program revenues and may be supplemented by ~~an additional~~ a permissive levy, voted levy ~~and~~, or other revenue, as provided by 20-9-145 and 20-9-353."

Section 26. Section 20-9-315, MCA, is amended to read:

"**20-9-315. Maximum general fund budget and exceptions.** (1) The total amount of the general fund budget of ~~any~~ a district may not be greater than the district's foundation program as provided in 20-9-303, except when a district has adopted ~~an--emergency-general-fund~~ a budget amendment under the provisions of 20-9-165 or when a district satisfies the requirements of 20-9-145 and 20-9-353.

(2) Notwithstanding the provisions of subsection (1), for school fiscal year 1991 and succeeding years, a district's maximum general fund budget may not exceed the greater of:

(a) ~~[the-equivalent-of-the--percent--to--be--determined that--is-112%-of-FY-1988-district-general-fund-and-insurance fund-expenditures]~~ 135% of the foundation program amount provided for in 20-9-303; or

(b) 104% of the district's general fund budget amount for the previous school fiscal year, including any school

district expenses from the previous school fiscal year approved for inclusion in this calculation by the superintendent of public instruction under [section 50].

(3) Subsection (2) does not apply when the source of funding for the excess amount is any of the following:

(a) Public Law 81-874 funds ~~are-the--source--of--funding for--the-excess-amount~~, until the state receives approval of an application to equalize the funds under 20 U.S.C. 240(d); or

(b) general bonus payments under 20-6-401."

Section 27. Section 20-9-321, MCA, is amended to read:

"**20-9-321. Foundation program and contingency funds for special education.** (1) For the purpose of establishing the foundation program amount for a current year special education program for a school district, the superintendent of public instruction shall determine the total estimated cost of the special education program for the school district on the basis of a special education program budget submitted by the district. The budget must be prepared on forms provided by the superintendent of public instruction and must set out for each program:

(a) the estimated allowable costs associated with operating the program where allowable costs are as defined in 20-7-431;

(b) the number of pupils expected to be enrolled in the

program; and

(c) any other data required by the superintendent of public instruction for budget justification purposes and to administer the provisions of 20-9-315 through 20-9-321.

(2) The total amount of allowable costs approved by the superintendent of public instruction is the special education foundation program amount for current year special education program purposes. The total amount of allowable costs that are approved for the special education budget may not, under any condition, be less than the foundation program amount for one regular ANB for each full-time special pupil in the school district.

(3) If a special education program is implemented or expanded during a given school term too late to be included in the determination of the district foundation program for the school year as prescribed in this part, allowable costs approved under the budgeting provisions of subsections (1) and (2) for the operation of the program during the given year must be funded from any legislative appropriation for contingency financing for special education. Contingency funds granted under this subsection must be deposited in a separate account of the miscellaneous programs fund of the district as provided in 20-9-507. However, if contingency funds are not available, then subject to the approval of the program by the superintendent under the emergency budget

amendment provisions of 20-9-161{5}(6), allowable costs for the given year may be funded in the miscellaneous programs fund by other revenue sources and added to the foundation program amount for special education for the subsequent school year under the provisions of [section 50]. The allowable costs must be recorded as previous year special education expenses in the school district budget for the subsequent school year.

(4) The sum of the previous year special education expenses as defined in subsection (3) and the foundation program amount for current year special education as defined in subsections (1) and (2) is the special education budget for accounting purposes.

(5) The foundation program amount for special education must be added to the foundation program amount of the regular program ANB defined in 20-9-311 and 20-9-313 to obtain the total foundation program amount for the district."

Section 28. Section 20-9-344, MCA, is amended to read:

"**20-9-344. Purpose of state equalization aid and duties of the board of public education for distribution -- conditions of first payment.** (1) The money available for state equalization aid must be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of

revenues required for debt service and for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings and grounds, and transportation.

(2) The board of public education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law and in a manner that provides for monthly distribution to each district of its foundation program amount and to each county and district distribution of its guaranteed tax base aid;

(b) have the power to require reports from the county superintendents, budget boards, county treasurers, and trustees as it considers necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education may not increase or decrease the state equalization aid distribution to any district on account of any difference that may occur during the school fiscal year

between budgeted and actual receipts from any other source of school revenue.

(3) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(4) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(5) If a district or county receives more state equalization aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the ~~department---of---commerce~~ superintendent of public instruction.

(6) (a) The first foundation program payment and guaranteed tax base aid payment must be based on an estimate of 20% of the entitlement of each district or county and distributed by July 15 of the school fiscal year.

(b) Each subsequent monthly payment must be at least 7% of the entitlement of each district or county."

Section 29. Section 20-9-353, MCA, is amended to read:

"**20-9-353. Additional levy for general fund -- election for authorization to impose.** (1) Except as limited by 20-9-315(2), the trustees of ~~any~~ a district may propose to adopt a general fund budget in excess of the foundation program and the permissive amount for the district for any of the following purposes:

(a) building, altering, repairing, or enlarging any schoolhouse of the district;

(b) furnishing additional school facilities for the district;

(c) acquisition of land for the district;

(d) proper maintenance and operation of the school programs of the district; or

(e) severance pay for district employees.

(2) When the trustees of ~~any~~ a district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise the excess amount of general fund financing to the electors who are qualified under 20-20-301 to vote upon the proposition, except that an election is not required to permit the school trustees to

use any funds available to finance the additional amount other than those funds to be raised by the additional levy. The special election must be called and conducted in the manner prescribed by this title for school elections. The ballot for the election must state only the amount of money to be raised by additional property taxation, the approximate number of mills required to raise the money, and the purpose for which the money will be expended. The ballot must be in the following format:

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in the number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional tax levy is made)?

☐ FOR the levy.

☐ AGAINST the levy.

(3) If the election on any additional levy for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget. The trustees shall certify the additional levy amount authorized by the special election on the budget form that is submitted

to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141, to raise the amount of the additional levy.

(4) Authorization to levy an additional tax under the provisions of this section is effective for only 1 school fiscal year and must be authorized by a special election conducted before August 1 of the school fiscal year for which it is effective."

Section 30. Section 20-9-360, MCA, is amended to read:

"**20-9-360. State equalization aid levy.** ~~(1)~~ There is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204. ~~Except--as--provided-in-subsection-(2),-proceeds~~ Proceeds of the levy must be remitted to the state treasurer and must be deposited to the credit of the state special revenue fund for state equalization aid to the public schools of Montana.

~~(2)--For--the--benefit-of-each-municipality-that-created an-urban-renewal-area-and-adopted-a-tax-increment--financing provision--for-the-urban-renewal-area-prior-to-July-1,-1990, each-year-the-state-treasurer-shall-distribute-to-the-county an-amount-of-the-state-equalization-levy-equal--to--the--tax increment--derived--by--the-municipality-for-the-fiscal-year ending-June-30,-1989,-from-the-levy-for-property--taxes--for school--district--purposes-against-property-within-the-urban renewal-district,-less-the-amount-of-tax-increment--actually received-by-the-municipality-in-each-year-as-a-result-of-the imposition-of-mill-levies-for-school-district-purposes."~~

Section 31. Section 20-9-361, MCA, is amended to read:

"**20-9-361. State and county equalization revenue -- statutory appropriation.** Revenue received in support of state and county equalization under the provisions of 20-9-331, 20-9-333, and 20-9-343 is statutorily appropriated, as provided in 17-7-502, to:

~~(1)~~ the superintendent of public instruction to be used for county equalization and state equalization aid for the public schools, as provided by law, and must be accounted for in accordance with generally accepted accounting principles; ~~and~~

~~(2)--counties-as-provided-in-20-9-360(2).~~"

Section 32. Section 20-9-366, MCA, is amended to read:

"**20-9-366. Definitions.** As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County mill value per elementary ANB" or "county mill value per high school ANB" means the sum of the current taxable valuation of all property in the county plus the taxable value of oil and gas net proceeds determined under

15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of ~~schools~~ the elementary school and high school district retirement funds, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for ~~schools~~ the county retirement fund is the amount of nonlevy revenue ~~received--by--a--district~~ deposited in the elementary school or high school district retirement fund in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the ~~district~~ county in the previous year in support of the elementary school and high school district retirement funds, multiplied by 1,000.

(2) "District mill value per ANB" means the current taxable valuation of all property in the district plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990,

plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of ~~schools~~ the school district's general fund, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program schedule amount. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of nonlevy revenue ~~received--by~~ deposited in a ~~district~~ district's general fund in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year in support of the district's general fund, multiplied by 1,000.

(3) "~~Guaranteed--overschedule---general---fund---budget~~ Permissive amount" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding ~~135%~~ 35% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide district mill value per elementary ANB"

or "statewide district mill value per high school ANB" means the sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of ~~schools~~ the general funds of all school districts, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of nonlevy revenue ~~received by a district~~ deposited to the general fund of a school district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year in support of the district general fund, multiplied by 1,000.

(5) "Statewide county mill value per elementary ANB" or "statewide county mill value per high school ANB" means the

sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of the elementary school or high school district retirement fund, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for the county retirement fund is the amount of nonlevy revenue deposited in the elementary school or high school district retirement fund the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the county in the previous year in support of the elementary school and high school retirement funds, multiplied by 1,000."

Section 33. Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base

aid. (1) If the district mill value per ANB of any elementary or high school district is less than the corresponding statewide district mill value per elementary ANB or high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of its ~~guaranteed---overschedule~~ permissive amount of the general fund budget.

(2) If the county mill value per elementary ANB or high school ANB is less than the corresponding statewide county mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county."

Section 34. Section 20-9-368, MCA, is amended to read:

"**20-9-368. Amount of guaranteed tax base aid -- reversion.** (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide county mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets of the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that

a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide county mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets of the high school districts in the county.

(3) The amount of guaranteed tax base aid per ANB that a district may receive in support of its **guaranteed** ~~overschedule~~ permissive amount of the general fund budget is the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's **guaranteed** ~~overschedule~~ permissive amount of the general fund budget.

(4) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

Section 35. Section 20-9-406, MCA, is amended to read:

"**20-9-406. Limitations on amount of bond issue.** (1) The maximum amount for which each school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of ~~such~~ the indebtedness, including:

(a) the taxable value of coal gross proceeds as determined for county bonding purposes in 15-23-703(2);

(b) the taxable value of oil and gas net proceeds as determined for county bonding purposes in 15-23-607(3); and

(c) the amount of the value of any other oil and gas production occurring after December 31, 1988, multiplied by 60%.

(2) The 45% maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of ~~such~~ the amount ~~shall--be--null--and~~ are void, except as provided in this section.

~~(2)~~(3) When the total indebtedness of a school district

has reached the 45% limitation prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

~~(3)~~(4) Whenever bonds are issued for the purpose of refunding bonds, any ~~moneys~~ money to the credit of the debt service fund for the payment of the bonds to be refunded ~~are~~ is applied towards the payment of ~~such~~ the bonds and the refunding bond issue is decreased accordingly."

Section 36. Section 20-9-435, MCA, is amended to read:

"**20-9-435. Delivery of school district bonds and disposition of sale moneys.** (1) After the school district bonds have been registered, the county treasurer shall:

(a) when the board of investments has purchased ~~such~~ the bonds, forward the bonds to ~~such~~ the state board which, in turn, shall ~~cause~~ send the bonds ~~to-be-sent~~ to the state treasurer and shall cause the bonds to be paid for in the manner provided by law; or

(b) ~~when~~ if the purchaser is anybody other than the board of investments, deliver the bonds to ~~such~~ the purchaser when full payment of the bonds has been made by the purchaser.

(2) If any of the trustees fails or refuses to pay into the proper county treasury the money arising from the sale

of ~~any--bonds~~ a bond, he is guilty of a felony and shall be punished by imprisonment in the state prison for not less than 1 year or more than 10 years, or by a fine of not more than $50,000, or ~~by~~ both ~~such-fine-and-imprisonment~~.

(3) All money realized from the sale of school district bonds ~~shall~~ must be paid to the county treasurer, and he shall credit ~~such~~ the money to the building fund of the school district issuing the bonds, except money realized for accrued interest or the purposes defined in 20-9-403(1)(c) and (1)(d) ~~shall~~ must be deposited in the debt service fund ~~for-the-purchase-of-such-bonds~~. The money realized from the sale of school district bonds ~~shall~~ must be immediately available to ~~such~~ the school district, and the trustees may expend ~~such~~ the money without budgeted authorization only for the purposes for which the bonds were authorized by the school district bond election. Under the provisions of 7-6-2802, the trustees may invest the money for which there is no immediate demand and the interest earned by ~~such~~ investment ~~shall~~ must be used in the manner provided ~~therein~~ in 7-6-2802. After the full accomplishment of the purpose or purposes of a bond issue, the excess money realized from ~~such~~ the bond issue ~~shall~~ must be transferred to the debt service fund of the school district to be used for the redemption or purchase of bonds of ~~such~~ the issue."

Section 37. Section 20-9-438, MCA, is amended to read:

"**20-9-438. Preparation of debt service fund budget -- ~~cash~~ operating reserve.** (1) The trustees of each school district having outstanding bonds shall include in the debt service fund of the preliminary budget adopted in accordance with 20-9-113 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of ~~such~~ the bonds and the redemption plans of the trustees.

(2) The trustees shall also include in the debt service fund of the preliminary budget:

(a) the amount of money necessary to pay the special improvement district assessments levied against the school district ~~which~~ that become due during the ensuing school fiscal year; and

(b) a limited ~~cash~~ operating reserve for the school fiscal year following the ensuing school fiscal year as provided in subsection (3).

(3) At the end of each school fiscal year, the trustees of a school district may designate a portion of the end-of-the-year ~~cash~~ fund balance of the debt service fund to be earmarked as a limited ~~cash~~ operating reserve for the purpose of paying, whenever a cash flow shortage occurs, debt service fund warrants and bond obligations ~~which~~ that must be paid from July 1 through November 30 of the school

fiscal year following the ensuing school fiscal year. Any portion of the debt service fund end-of-the-year ~~cash~~ fund balance not earmarked for limited ~~cash~~ operating reserve purposes must be reappropriated to be used for property tax reduction as provided in 20-9-439.

(4) The county superintendent shall compare the preliminary budgeted amount for the debt service fund with the bond retirement and interest requirement and the special improvement district assessments for the school fiscal year just beginning as reported by the county treasurer in his statement supplied under the provisions of 20-9-121. If the county superintendent finds that the requirement stated by the county treasurer is more than the preliminary budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the preliminary budget. The amount confirmed or revised by the county superintendent ~~shall be~~ is the final budget expenditure amount for the debt service fund of ~~such~~ the school district."

Section 38. Section 20-9-439, MCA, is amended to read:

"**20-9-439. Computation of net levy requirement -- procedure when levy inadequate.** (1) The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) determine the total ~~moneys~~ money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year ~~cash~~ fund balance, ~~less--any outstanding--warrants~~ in the debt service fund ~~and~~, less any limited ~~cash~~ operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other ~~moneys~~ money anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income;

(b) the total amount available to reduce the property tax, determined in subsection (1)(a), ~~shall~~ must be subtracted from the final budget expenditure amount for the debt service fund as established in 20-9-438;

(c) the net debt service fund levy requirement determined in subsection (1)(b) ~~shall~~ must be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy ~~shall~~ must be made by the county commissioners in accordance with 20-9-142.

(2) If the board of county commissioners ~~shall fail~~ fails in any school fiscal year to make a levy for any issue or series of bonds of ~~any~~ a school district sufficient to raise the ~~moneys~~ money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in ~~such~~ any amounts ~~as are~~ established under the provisions of this section, the holder of any bond of ~~such~~ the issue or series or any taxpayer of the district may apply to the district court of the county in which ~~such~~ the school district is located for a writ of mandate to compel the board of county commissioners of ~~such~~ the county to make a sufficient levy for such purposes. If, upon the hearing of ~~such~~ the application, it ~~shall appear~~ appears to the satisfaction of the court that the board of county commissioners of ~~such~~ the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of ~~such~~ the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in ~~such~~ the school district that is sufficient to raise the amount of ~~such~~ the deficiency. ~~Such~~ The levy ~~shall~~ be is in addition to any levy required to be made at that

time for the ~~then-ensuing~~ ensuing school fiscal year. Any costs ~~which~~ that may be allowed or awarded the petitioner in ~~any such~~ the proceeding ~~shall~~ must be paid by the members of the board of county commissioners and ~~shall~~ may not be a charge against the school district or the county."

Section 39. Section 20-9-471, MCA, is amended to read:

"**20-9-471. Issuance of ~~short-term~~ obligations -- authorization -- conditions.** (1) The trustees of a school district may, without a vote of the electors of the district, issue and sell to the board of investments ~~short-term~~ obligations for the purpose of financing all or a portion of:

(a) the costs of vehicles and equipment;

(b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited to roof repairs, heating, plumbing, and electrical systems;

(c) any other capital expenditure the district is otherwise authorized to make, subject to subsection (4); and

(d) the costs associated with the issuance and sale of the ~~short-term~~ obligations.

(2) The term of the ~~short-term~~ obligation may not exceed 5 full fiscal years.

(3) At the time of issuing the obligation, there must exist an amount in the budget for the current fiscal year

available and sufficient to make the debt service payment on the obligation coming due in the current year. The budget for each following year in which any portion of the principal of and interest on the obligation is due must provide for payment of ~~such~~ that principal and interest.

(4) The proceeds of the ~~short-term~~ obligation may not be used to acquire real property or construct a facility.

(5) An obligation issued is payable from any legally available fund of the district and constitutes a general obligation of the district.

(6) The obligation may bear interest at a fixed or variable rate and may be sold to the board of investments at par, at a discount, or with a premium, and upon any other terms and conditions that the trustees determine to be in the best interests of the district.

(7) The principal amount of the ~~short-term~~ obligation, when added to the outstanding bonded indebtedness of the district, may not exceed the debt limitation established in 20-9-406."

Section 40. Section 20-9-501, MCA, is amended to read:

"**20-9-501. Retirement fund.** (1) The trustees of ~~any~~ a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security

system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to ~~such~~ the systems. The district's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-801. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of ~~any~~ a district required to make a contribution to ~~any~~ a system referred to in subsection (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to ~~such~~ the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

~~(ii) anticipated guaranteed tax base aid in support of retirement;~~

~~(iii)~~ net proceeds taxes and local government severance taxes on any other oil and gas production occurring after December 31, 1988;

~~(iv)~~(iii) coal gross proceeds taxes under 15-23-703; ~~and~~

~~(v)~~(iv) any ~~cash~~ fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year ~~cash~~ fund balance earmarked as the retirement fund ~~cash~~ operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year ~~cash~~ fund balance in the retirement fund. The retirement fund ~~cash~~ operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget; and

(v) any other revenue anticipated that may be realized

in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (8), subtracting the money available for reduction of the levy requirement, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the second Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.

(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence

in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the ~~budget for the special education cooperative agreement of the district bears to the total budget of the cooperative~~ special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(8) (a) For a county that is eligible for guaranteed tax base aid under the provisions of 20-9-367, the county superintendent shall provide the board of county commissioners with the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction, to fund the retirement fund net levy requirement.

(b) The county commissioners shall calculate the number of mills to be levied on the taxable property in the county

to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:

(i) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(ii) the taxable valuation of the district divided by 1,000."

Section 41. Section 20-9-504, MCA, is amended to read:

"**20-9-504. Extracurricular fund for pupil functions.** (1) The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All extracurricular moneys of ~~any~~ a pupil organization of the school ~~shall~~ must be deposited and expended by check from a bank account maintained for the extracurricular fund.

(2) An accounting system for the extracurricular fund recommended by the ~~department of commerce shall~~ superintendent of public instruction must be implemented by the trustees. ~~Such~~ The accounting system ~~shall~~ must provide for:

(a) the internal control of the cash receipts and

expenditures of the money; and

(b) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function."

Section 42. Section 20-9-505, MCA, is amended to read:

"**20-9-505. Purpose and establishment of nonoperating fund.** (1) The trustees of ~~any~~ a district that will not operate ~~any~~ a school during the ensuing school fiscal year shall establish a nonoperating fund on the first day of ~~such~~ the school fiscal year. In establishing the nonoperating fund, the trustees shall cause the transfer of the end-of-the-year ~~cash~~ fund balance of each fund maintained by the district during the immediately preceding school fiscal year to the nonoperating fund. However, ~~cash~~ fund balances of the debt service fund and the miscellaneous ~~federal~~ programs fund, if any, ~~shall~~ must be maintained in their individual funds.

(2) The trustees of a district establishing a nonoperating fund for the first year of nonoperation may earmark a portion of the nonoperating fund ~~cash~~ balance as a nonoperating fund ~~cash~~ operating reserve when they anticipate the reopening of a school in the following school fiscal year. ~~Such cash~~ The operating reserve ~~shall~~ may not be more than the general fund ~~cash~~ operating reserve

designated for the immediately preceding school fiscal year. If a school is not operated in the following school fiscal year, the authority of the trustees to earmark a nonoperating fund ~~cash~~ operating reserve ~~shall terminate~~ terminates and the ~~moneys~~ money earmarked as ~~a--cash~~ an operating reserve ~~shall~~ must be used to reduce the levy requirement of the nonoperating fund. If the trustees acquire approval to reopen a school in the following school fiscal year under the provisions of 20-6-502 or 20-6-503 and operate ~~such~~ the school, the nonoperating fund ~~cash~~ operating reserve ~~shall~~ must be restored as the general fund ~~cash~~ operating reserve.

(3) The purpose of the nonoperating fund ~~shall be~~ is to centralize the financing and budgeting for the limited functions of a district not operating a school. ~~Such~~ The functions ~~shall~~ include:

(a) elementary tuition obligations to other districts;

(b) transportation of the resident pupils;

(c) maintenance of district-owned property; and

(d) any other nonoperating school function of the district ~~deemed~~ considered necessary by the trustees or required by law.

(4) Any expenditure of nonoperating fund ~~moneys shall~~ money must be made in accordance with the financial administration provisions of this title for a budgeted

fund."

Section 43. Section 20-9-507, MCA, is amended to read:

"20-9-507. Miscellaneous programs fund. (1) The trustees of ~~any~~ a district receiving ~~grants--of~~ money from local, state, ~~or~~ federal ~~moneys~~, or other district sources other than ~~moneys~~ money under the provisions of Title I of Public Law 81-874 or federal ~~moneys~~ money designated for deposit in a specific fund of the district shall establish a miscellaneous programs fund for the deposit of ~~such--moneys~~ the money. ~~Such-moneys~~ The money may be a reimbursement of expenditures already realized by the district or may be a grant of ~~moneys~~ money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the ~~moneys-are~~ money is a reimbursement, the ~~moneys-shall~~ money may be expended at the discretion of the trustees for school purposes. When the ~~moneys-are~~ money is a grant, the ~~moneys-shall~~ money must be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall cause a separate accounting to be maintained for each federal grant program and for the aggregate of all reimbursement ~~moneys~~ money.

(2) The financial administration of the miscellaneous programs fund ~~shall~~ must be in accordance with the financial

administration provisions of this title for a nonbudgeted fund ~~which-shall-be-applied-by-individual-grant-programs-or-for-the-aggregate-amount-of-the-reimbursement-moneys--rather-than-on-the-basis-of-the-total-fund.~~"

Section 44. Section 20-10-101, MCA, is amended to read:

"20-10-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Transportation" ~~shall-mean~~ means:

(a) a district's conveyance of a pupil by a school bus between his legal residence and the school designated by the trustees for his attendance; or

~~(b) a--district's-conveyance-of-a-pupil-by-a-school-bus-between--his--regular---school---of---attendance---and---the-vocational-technical--secondary--schools--designated--by-the-trustees-for-his--attendance--if--the--secondary--school--is-located-in-some-other-school-district;-or~~

~~(c)~~ "individual transportation" whereby a district is relieved of actually conveying a pupil. ~~Such--individual~~ Individual transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised home study.

(2) An "eligible transportee" ~~shall-mean~~ means a public school pupil who:

(a) is ~~not less than~~ 5 years of age ~~nor~~ or older and has not attained his 21st birthday or who is a handicapped preschool child between the ages of 3 and 6;

(b) is a resident of the state of Montana;

(c) regardless of district and county boundaries, resides at least 3 miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; and

(d) is ~~deemed by law~~ considered to reside with his parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

(3) (a) A "school bus" means, except as provided in subsection (3)(b), any motor vehicle that:

(i) complies with the bus standards established by the board of public education as verified by the Montana department of justice's semiannual inspection of school buses and the superintendent of public instruction; and

(ii) is owned by a district or other public agency and operated for the transportation of pupils to or from school or owned by a carrier under contract with a district or public agency to provide transportation of pupils to or from school.

(b) A school bus does not include a vehicle that is:

(i) privately owned and not operated for compensation under this title;

(ii) privately owned and operated for reimbursement under 20-10-142;

(iii) either district-owned or privately owned, designed to carry not more than nine passengers, and used to transport pupils to or from activity events or to transport pupils to their homes in case of illness or other emergency situations; or

(iv) an over-the-road passenger coach used only to transport pupils to activity events."

Section 45. Section 20-10-143, MCA, is amended to read:

"**20-10-143. Budgeting for transportation and transmittal of transportation contracts.** (1) The trustees of ~~any~~ a district furnishing transportation to pupils who are residents of ~~such~~ the district ~~shall~~ have the authority and it ~~shall be~~ is their duty to provide a transportation fund budget that is adequate to finance ~~such~~ the district's transportation contractual obligations and any other transportation expenditures necessary for the conduct of its transportation program. The transportation fund budget ~~shall~~ must include:

(a) an adequate amount to finance the maintenance and operation of district owned and operated school buses;

(b) the annual contracted amount for the maintenance

and operation of school buses by a private party;

(c) the annual contracted amount for individual transportation, including any increased amount ~~due---to~~ because of isolation, which ~~shall~~ may not exceed the schedule amounts prescribed in 20-10-142;

(d) any amount necessary for the purchase, rental, or insurance of school buses; and

(e) any other amount necessary to finance the administration, operation, or maintenance of the transportation program of the district, as determined by the trustees.

(2) The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill any obligation to provide transportation in accordance with the transportation law for any pupils not residing in the district at the time of the adoption of the preliminary budget and who subsequently became residents of ~~such~~ the district during the school fiscal year or pupils who have become eligible transportees since the adoption of the preliminary budget because their legal residence has been changed. The budgeted contingency amount ~~shall~~ may not exceed 10% of the transportation schedule amount as calculated under the provisions of 20-10-141 and 20-10-142 for all transportation services authorized by ~~such~~ the schedule and provided by the district

unless 10% of ~~such~~ the transportation schedule amount ~~shall~~ be is less than $100, in which case $100 ~~shall--be~~ is the maximum limitation for ~~such~~ the budgeted contingency amount.

(3) As provided in 20-9-162, an ~~emergency~~ amendment to the transportation fund budget may be adopted subject to the provisions of the ~~emergency-budgeting~~ budget amendment law.

(4) The transportation fund budgeted expenditures appropriated by the trustees ~~shall~~ must be reported on the regular budget form prescribed by the superintendent of public instruction in accordance with 20-9-103, and the adoption of the transportation fund budget ~~shall~~ must be completed in accordance with the school budgeting laws. When the adopted preliminary budget is sent to the county superintendent, the trustees shall also send copies of all completed transportation contracts for school bus transportation and individual transportation to the county superintendent. ~~Such~~ The contracts ~~shall~~ must substantiate all contracted transportation services incorporated in the preliminary budget, and after the county superintendent has utilized the contracts for ~~such~~ that purpose but before the fourth Monday of July, he shall send all ~~the~~ transportation contracts received by him to the superintendent of public instruction. When the county superintendent determines a deviation between the preliminary transportation fund budget amount for contracted transportation services and the

contracted amount for ~~such~~ the services, he shall immediately call the deviation to the attention of the appropriate trustees and shall allow the trustees to change the preliminary budgeted amount to compensate for ~~such~~ the deviation."

Section 46. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for the transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or $100, whichever is larger, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 3 and the resulting one-third amount is used to determine the available state and county revenue to be budgeted on the following basis:

(a) the resulting one-third amount is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be two-thirds of the schedule amount attributed to the

transportation of special education pupils;

(b) the resulting one-third amount, except as provided for joint elementary districts in subsection (2)(e), is the budgeted county transportation reimbursement for elementary districts and must be financed by the basic county tax under the provisions of 20-9-334;

(c) the resulting one-third amount multiplied by 2 is the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5), except as provided for joint high school districts in subsection (2)(e), and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be one-third of the schedule amount attributed to the transportation of special education pupils;

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(b) or (2)(c) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a); and

(e) the county revenue requirement for a joint

district, after the application of any district money under subsection (2)(d), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act; plus

(b) anticipated payments from other districts for providing school bus transportation services for the district; plus

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child; plus

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4); plus

(e) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus

(f) gross proceeds taxes from coal under 15-23-703;

plus

(g) net proceeds taxes for interim production and new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; plus

(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year ~~which~~ that may be used to finance the transportation fund; plus

(i) any ~~cash~~ fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year ~~cash~~ fund balance earmarked as the transportation fund ~~cash~~ operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year ~~cash~~ fund balance in the transportation fund. The ~~cash~~ operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount and, for an elementary district, adding the difference to the district obligation to finance one-third

of the schedule amount as determined in subsection (2); and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts is computed by adding all requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and the levies must be made by the county commissioners in accordance with 20-9-142."

Section 47. Section 20-10-145, MCA, is amended to read:

"**20-10-145. State transportation reimbursement.** (1) ~~Any~~ A district providing school bus transportation or individual transportation in accordance with the transportation law, board of public education transportation policy, and superintendent of public instruction transportation rules

shall must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement shall may not exceed one-third of the reimbursement amounts established in such sections 20-10-141 and 20-10-142 or one-third of the district's transportation fund budget, whichever is smaller, and shall must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation reimbursement, no an amount claimed by a district shall may not be considered for reimbursement unless such the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

(2) Requests for the state transportation reimbursement shall must be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements shall must be routed by the district to the county superintendent, who after reviewing such the claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by

determining their compliance with the transportation law, board of public education transportation policy, and the transportation rules of the superintendent of public instruction. After making any necessary adjustments to such the claims, he--shall--cause-their-payment-by-ordering the superintendent of public instruction shall order a disbursement from the state moneys money appropriated by the legislature of the state of Montana for the state transportation reimbursement. Such The payment of all the district's claims within one county shall must be made to the county treasurer of such the county, and the county superintendent shall apportion such the payment in accordance with the apportionment order supplied by the superintendent of public instruction."

Section 48. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry -- assessment. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall must be taxed at 50% of their taxable value. Each year thereafter, the percentage shall must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall must be taxed at

100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) ~~shall~~ must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer ~~must~~ shall apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The

application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body ~~must~~ shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, 20-9-360, or otherwise required under state law."

Section 49. Section 20-15-404, MCA, is amended to read:

"**20-15-404. Trustees to adhere to certain other laws.** Unless the context clearly indicates otherwise, the trustees of a community college district shall adhere to:

(1) ~~adhere to~~ the teachers' retirement provisions of Title 19, chapter 4~~, as amended~~;

(2) ~~adhere to~~ the provisions of 20-1-201, 20-1-205, 20-1-211, and 20-1-212~~, as amended~~;

(3) adhere--to the school property provisions of 20-6-604, 20-6-605, 20-6-621, 20-6-622, 20-6-624, 20-6-631, and 20-6-633 through 20-6-636, as amended;

(4) adhere--to the adult education provisions of 20-7-701 through 20-7-713, as amended;

(5) adhere-to the administration of finances provisions of 20-9-115, 20-9-134, ~~subsections (2), (3), (4), and (5) of 20-9-161, 20-9-163, 20-9-165,~~ 20-9-207, 20-9-208, 20-9-210, 20-9-215, 20-9-221 through 20-9-224, and 20-9-512, as amended;

(6) adhere--to the school bond provisions of 20-9-401 through 20-9-412, 20-9-421 through 20-9-446, 20-9-451 through 20-9-456, and 20-9-461 through 20-9-465, as amended;

(7) adhere--to the special purpose funds provisions of 20-9-502, 20-9-503, 20-9-507, 20-9-508, and 20-9-511, as amended;

(8) adhere--to the educational cooperative agreements provisions of 20-9-701 through 20-9-704, as amended;

(9) adhere-to the school elections provisions of Title 20, chapter 20, as amended;

(10) adhere--to the students' rights provisions of 20-25-511 through 20-25-516, as amended; and

(11) adhere-to the health provisions of 50-1-206."

NEW SECTION. **Section 50. Approval to amend general fund budget for ensuing school fiscal year.** (1) The trustees

of a district may determine that expenses from the following sources will need to be funded by the general fund budget in the ensuing school fiscal year:

(a) a budget amendment authorized under the provisions of 20-9-161 through 20-9-163;

(b) metal mines tax reserve fund authorized in 20-9-231;

(c) special education expenditures approved under the provisions of 20-9-321(3);

(d) transfer of services from or dissolution of a special education cooperative; and

(e) tuition receipts deposited in the miscellaneous programs fund.

(2) Whenever the trustees determine that expenses from the sources in subsection (1) will need to be funded by the general fund in the ensuing year, the trustees shall petition the superintendent of public instruction for approval to add the expenditures from any of the sources to the current year's general fund budget for the purposes of calculating the ensuing year's general fund budget limitation. The petition must set forth in writing the specific reasons for the request and a report of the actual expenditures.

(3) The superintendent of public instruction shall promptly approve or disapprove the petition for approval to

add the expenditures from the sources in subsection (1) to the current year's general fund budget for the purposes of calculating the ensuing year's general fund budget.

NEW SECTION. **Section 51. Definition of emergency for budgeting purposes.** As used in this chapter, unless the context clearly indicates otherwise, the term "emergency" for the purpose of community college budgeting means:

(1) the destruction or impairment of any community college district property necessary to the maintenance of the district, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering the property unfit for its present use;

(2) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(3) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district; or

(4) any other reason of similar consequence that has been approved by the board of regents upon petition by the trustees of the district.

NEW SECTION. **Section 52. Resolution for emergency budget -- petition to the board of regents.** (1) Whenever the trustees of a community college district decide that an emergency exists, they may adopt a resolution proclaiming

the emergency by a unanimous vote of all members present at any meeting for which each trustee has been given reasonable notice of the time and place of holding the meeting. The emergency resolution must also state the facts constituting the emergency, the estimated amount of money required to meet the emergency, the funds affected by the emergency, and the time and place the board will meet for the purpose of considering and adopting an emergency budget for the funds for the current school fiscal year.

(2) If the trustees decide that an emergency exists for any reason other than the conditions specified in 20-9-161 (1) through (3), they shall petition the board of regents for permission to adopt a resolution of emergency. The petition must set forth in writing the reasons for the request, the district funds affected by the emergency, the estimated amount of money required to meet the emergency for each affected fund, the anticipated sources of financing for the emergency expenditures, and any other information required by the board of regents. The petition must be signed by each trustee.

(3) The board of regents shall promptly approve or disapprove the petition requesting approval to adopt a resolution of emergency. If the petition is approved, the trustees may adopt a resolution of emergency and take all other steps required for the adoption of an emergency

budget. Approval of a petition by the board of regents authorizes the board of trustees to initiate emergency budget proceedings by resolution and does not relieve the trustees of the necessity of complying with the requirements of the emergency budgeting laws.

NEW SECTION. **Section 53. Emergency budget limitation, preparation, and adoption procedures.** (1) The meeting of the trustees of a community college district to consider and adopt an emergency budget must be open to the public, and any taxpayer in the district has the right to appear and be heard. If at the meeting a majority of the trustees present find that an emergency exists, the trustees may make and adopt a preliminary emergency budget, on the regular budget form, setting forth fully the facts constituting the emergency. In adopting the preliminary emergency budget, the trustees may budget for any fund that was included on the final budget of the district for the current fiscal year. The budget must be itemized to show the amount appropriated for each item as required on the budget form.

(2) When the emergency is the result of increased enrollment, the maximum amount of the emergency budget for all funds must be determined by budget amendment.

(3) If another type of emergency occurs, the budget must be limited to the expenditures considered by the trustees to be reasonable and necessary to finance the

conditions of the emergency and the preliminary emergency budget must include the details of the proposed expenditures.

(4) After a majority of the trustees have voted to adopt the emergency budget, it must be signed by the chairman of the trustees and the clerk of the district and copies must be sent to the county superintendent, the county treasurer, and the board of regents.

NEW SECTION. **Section 54. Determination of available financing -- fixing and levying property taxation for an emergency budget.** (1) After the last day of the fiscal year for which an emergency budget has been adopted, the county treasurer shall determine the amount of the cash balance that is available to finance the emergency budget's outstanding warrants or registered warrants for each fund included on the emergency budget. The available amount of the cash balance of each fund must be determined by deducting from the county treasurer's year-end cash balance for the fund the outstanding warrants or registered warrants issued under the regularly adopted final budget for the fund and the cash reserve for the fund that the trustees have established, within the limitations of law, for the following fiscal year.

(2) The county treasurer shall prepare and deliver a statement on the financial status of each fund included on

an emergency budget for a district that had an emergency budget during the preceding year to the board of county commissioners by the first Monday in August. The statement for each district emergency budget must include:

(a) the total amount of emergency warrants that are outstanding or registered against each fund of the district;

(b) the amount of the cash balance in each fund included on the emergency budget that is available to finance the outstanding warrants or registered warrants; and

(c) after consideration of the available money in subsection (2)(b), the additional amount of money that is required to finance the outstanding warrants or registered warrants and interest on the warrants and that must be raised by a tax levy.

(3) For each fund of the emergency budget of each district requiring a tax levy as established by subsection (2)(c), the board of county commissioners shall, at the time all other district and county taxes are fixed and levied, levy a tax on the taxable property of each applicable district that will raise sufficient financing to pay the amount established by the county treasurer.

NEW SECTION. **Section 55.** Repealer. Sections 15-10-103, 20-9-111, and 20-9-167, MCA, are repealed.

NEW SECTION. **Section 56.** Codification instruction. (1) [Section 50] is intended to be codified as an integral part

of Title 20, and the provisions of Title 20 apply to [section 50].

(2) [Sections 51 through 54] are intended to be codified as an integral part of Title 20, chapter 15, and the provisions of Title 20, chapter 15, apply to [sections 51 through 54].

NEW SECTION. **Section 57.** Retroactive applicability. [Sections 1 through 50] apply retroactively, within the meaning of 1-2-109, to the school fiscal year beginning July 1, 1990.

NEW SECTION. **Section 58.** Effective date. (1) [Sections 1 through 50 and this section] are effective on passage and approval.

(2) [Sections 51 through 54] are effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0017, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:
An act to generally revise school law in compliance with new school funding provisions and gennerally accepted accounting principles for school districts; to allow a district to amend the adopted general fund budget and exceed any applicable budget limitation in certain circumstances; to allow school districts to transport preschool special education students; to limit state transportstion reimbursement to 180 pupil instruction days; to adjust school district bonding limitation to compensate for changes in district taxable valuation; to extend the allocation of percentages of the individual income tax and the corporate license and income tax to the state general fund, the debt service account for long-range building program bonds, and the state equalization aid account for public schools; amending various sections; repealing various sections; and providing effective and applicability dates.

ASSUMPTIONS:
1. Current law allocates 100 percent of the personal and corporate income taxes excluding that on financial institutions to the general fund in FY92 and thereafter.
2. Personal and corporate income taxes allocated to the debt service account for long range building program bonds will be transferred to the general fund.
3. HB0384, as introduced, revenue estimates for public school equalization and the general fund are used.
4. Executive estimates for the cost of foundation and GTB.
5. Any FY92 surplus in the equalization account will be carried forward to FY93 to reduce general fund appropriation.

FISCAL IMPACT:
Office of Public Instruction:

	FY '92			FY '93		
Expenditures:	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
School Foundation and GTB	393,797,000	393,797,000	0	393,325,000	393,325,000	0
Funding:						
General Fund	102,511,000	0	(102,511,000)	129,831,000	1,998,000	(127,833,000)
School Equalization (02)	291,286,000	393,797,000	102,511,000	263,494,000	391,327,000	127,833,000
Total	393,797,000	393,797,000	0	393,325,000	393,325,000	0
Revenues:						
General Fund	562,288,000	449,878,000	(112,410,000)	579,601,000	391,667,000	(117,934,000)

Net Impact:
None, the increase in school equalization funding for school foundation and GTB is less than the reduction in general fund revenue in FY92 as $9,989,000 is added to the fund balance of the equalization account. In FY93 the increase in school equalization funding is greater than the reduction in general fund revenue as the fund balance from FY92 is used to fund the current law foundation and GTB.

Rod Sundsted 2/11/91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chet Blaylock 2/14/91
CHET BLAYLOCK, PRIMARY SPONSOR DATE

Fiscal Note for SB0017, second reading SB 17

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0017, second reading, revised.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise school law in compliance with new school funding provisions and generally accepted accounting principles for school districts; to allow a district to amend the adopted general fund budget and exceed any applicable budget limitation in certain circumstances; to allow school districts to transport preschool special education students; to limit state transportation reimbursement to 180 pupil instruction days; to adjust school district bonding limitation to compensate for changes in district taxable valuation; to extend the allocation of percentages of the individual income tax and the corporate license and income tax to the state general fund, the debt service account for long-range building program bonds, and the state equalization aid account for public schools; amending various sections; repealing various sections; and providing effective and applicability dates.

ASSUMPTIONS:

1. Current law allocates 100 percent of the personal and corporate income taxes excluding that on financial institutions to the general fund in FY92 and thereafter.
2. Personal and corporate income taxes allocated to the debt service account for long range building program bonds will be transferred to the general fund.
3. Revenue estimates from HB0384, as introduced for public school equalization and the general fund are used.
4. Executive estimates for the current law cost of foundation and GTB.
5. Any FY92 surplus in the equalization account will be carried forward to FY93 to reduce general fund appropriation.
6. The Office of Public Instruction currently reimburses for no more than 180 days of transportation, therefore the limit in section 46 will have no fiscal impact.
7. The state cost of GTB will increase $2,618,000 as excess reserves which are currently required to be applied against the district permissive will be used to fund the voted portion of their budget.
8. Revenues to the 40 mill statewide levy will increase by $85,000 as the tax reduction for new and expanding industries no longer applies to this levy.

FISCAL IMPACT:

see next page

ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chet Blaylock 3/18/91
CHET BLAYLOCK, PRIMARY SPONSOR DATE

Fiscal Note for SB0017, second reading, revised SB 17-Rev.

FISCAL IMPACT:
Office of Public Instruction:

	FY '92			FY '93		
Expenditures:	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
School Foundation and GTB	393,797,000	396,415,000	2,618,000	393,325,000	395,943,000	2,618,000
Funding:						
General Fund	102,511,000	0	(102,511,000)	129,831,000	7,064,000	(122,767,000)
School Equalization (02)	291,286,000	396,415,000	105,129,000	263,494,000	388,879,000	125,385,000
Total	393,797,000	396,415,000	2,618,000	393,325,000	395,943,000	2,618,000
Revenues:						
General Fund	562,288,000	449,878,000	(112,410,000)	579,601,000	391,667,000	(117,934,000)
School Equalization (02)	259,320,000	371,815,000	112,495,000	263,494,000	381,513,000	118,019,000

Net Impact:
The combined effect on general fund and school equalization funds will be a loss of $5,066,000. The total cost of school equalization will increase by $5,236,000 as reserves resulting from PL874 funds, protested and delinquent taxes, and tax audits are no longer applied against the permissive amount. Revenues will increase $170,000 as the tax reduction for new and expanding industries will not be applicable to the 40 mill statewide levy.

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0017, second reading, revised.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise school law in compliance with new school funding provisions and generally accepted accounting principles for school districts; to allow a district to amend the adopted general fund budget and exceed any applicable budget limitation in certain circumstances; to allow school districts to transport preschool special education students; to limit state transportation reimbursement to 180 pupil instruction days; to adjust school district bonding limitation to compensate for changes in district taxable valuation; to extend the allocation of percentages of the individual income tax and the corporate license and income tax to the state general fund, the debt service account for long-range building program bonds, and the state equalization aid account for public schools; amending various sections; repealing various sections; and providing effective and applicability dates.

ASSUMPTIONS:

1. Current law allocates 100 percent of the personal and corporate income taxes, excluding that on financial institutions, t the general fund in FY92 and thereafter.
2. Personal and corporate income taxes allocated to the debt service account for long range building program bonds will be transferred to the general fund.
3. Revenue estimates from HB0384, as introduced for public school equalization and the general fund, are used.
4. Executive estimates for the current law cost of foundation and GTB.
5. Any FY92 surplus in the equalization account will be carried forward to FY93 to reduce general fund appropriation.
6. The Office of Public Instruction currently reimburses for no more than 180 days of transportation, therefore the limit in section 46 will have no fiscal impact.
7. The state cost of GTB will increase $1,867,000 as excess reserves which are currently required to be applied against the district permissive will be used to fund the voted portion of their budget.
8. Revenues to the 40 mill statewide levy will increase by $85,000 as the tax reduction for new and expanding industries no longer applies to this levy.

FISCAL IMPACT:

see next page

Rod Sundsted 4/19/91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Chet Blaylock 4/19/91
CHET BLAYLOCK, PRIMARY SPONSOR DATE

FISCAL IMPACT:
Office of Public Instruction:

	FY '92			FY '93		
Expenditures:	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
School Foundation and GTB	393,797,000	395,237,000	1,440,000	393,325,000	394,765,000	1,440,000
Funding:						
General Fund	102,511,000	0	(102,511,000)	129,831,000	4,708,000	(124,269,000)
School Equalization (02)	291,286,000	395,237,000	103,951,000	263,494,000	390,057,000	126,136,000
Total	393,797,000	395,237,000	1,440,000	393,325,000	394,765,000	1,440,000
Revenues:						
General Fund	562,288,000	449,878,000	(112,410,000)	579,601,000	391,667,000	(117,934,000)
School Equalization (02)	259,320,000	371,815,000	112,495,000	263,494,000	381,513,000	118,019,000

Net Impact:
The combined effect on general fund and school equalization funds will be a loss of $2,710,000. The total cost of school equalization will increase by $2,880,000 as reserves resulting from PL874 funds, protested and delinquent taxes, and tax audits are no longer applied against the permissive amount. Revenues will increase $170,000 as the tax reduction for new and expanding industries will not be applicable to the 40 mill statewide levy.

SB17.02

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By SENATOR CHET BLAYLOCK
on January 11, 1991, at 1:00 P.M.

ROLL CALL

Members Present:

Chet Blaylock, Chairman (D)
Harry Fritz, Vice Chairman (D)
Robert Brown (R)
Bill Farrell (R)
H.W. Hammond (R)
Dennis Nathe (R)
Dick Pinsoneault (D)
Mignon Waterman (D)
Bill Yellowtail (D)

Members Excused: none

Staff Present: Eddye McClure (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: none

HEARING ON SB 17

Presentation and Opening Statement by Sponsor: Senator Chet Blaylock opened the committee meeting. He asked Senator Fritz to take the position of chairman for this meeting. Senator Fritz then opened the hearing on SB 17. He called upon Senator Blaylock to present SB 17 which he had sponsored.

In presenting background on SB 17 Senator Blaylock explained that he had been the chairman of the Interim Committee's Implementation Committee on HB 28 during the Special Session in 1989. He said that a great deal of work was done on that committee which had been charged by the legislature to follow how HB 28 was working. SB 17 developed out of that.

Senator Blaylock said that he had invited persons to testify today whom he considered to be experts in the education field

regarding this bill. He asked that they would explain technical amendments that are needed to work with HB 28 to make it work more smoothly. Also discussed was what must be done by all school districts in the state of Montana from now on. Schools will be changing the emergency budget procedures and going to a budget amendment rather than the old emergency budget routine.

Persons from the Montana School Board Association were present to offer amendments to SB 17 regarding protested taxes. Persons representing The League of Cities and Towns who are interested in putting back into the bill the language of the tax increment financing were also present.

Senator Blaylock said that he felt probably the most meaningful amendment that would be offered to the bill would involve the funding of the foundation program through the individual income tax of Montana. He said that after that amendment is offered, it will probably be debated more than the others because that is a policy and a philosophical matter for discussion.

At that time Senator Blaylock called upon Greg Groepper from the Office of Public Instruction to present the committee with information regarding the bill.

Mr. Groepper discussed SB 17. He said that he had worked on the committee which developed amendments affecting word changes which would bring school financial issues in compliance with generally accepted accounting principles. He said that they tried to not change the intent of the bill but merely to bring the bill in compliance with the practices that were being used in the school districts; for example, the emergency budget part of the bill. when a way was needed for a school to take care of an immediate problem of maintenance which might not be provided for in HB 28.

Amendments discussed: Section 7 - General operating Funds Reserve. It was explained that they were attempting to correct HB 28 where reserve limits were set for different school districts.

When limits had been drafted, it was the intention of the bill to allow school districts to exceed reserve limits by their PL874 funds by protested tax payments or by bonus payments for school districts that consolidated but the language of the bill needs to state that the sum of all these because some schools might have PL874 money; protested tax payments and bonus payments.

The present law will allow the higher amount of any one but it wouldn't allow districts that have multiple funding sources to use all three. Section 7 amendments deal with this in that it would allow a district that has more than one funding possibility to exceed their reserve unit to use one, two or all three of the funding sources.

Section 8 amendment makes it clear that there is no need to vote for a permissive levy.

Section 11 - budget amendment. The the old budget law never got amended to comply with HB 28. When a cap on a school district of 104% of the previous year's budget has been set, a levy of 104% has been set. At that time a school may have a maintenance emergency or possibly an enrollment increase. Previously there was no way of allowing districts to spend that previous money under HB 28 so Section 11 amends the old emergency budget amendment.

Significant changes are (1) a process to allow districts who have a significant amount of protested taxes build up to do an emergency budget and spend the protested taxes on deferred budget items. They would need to come to the Office of Public Instruction to get approval to spend the money on the budget items and once they got that budget approval, they can spend above their cap on those deferred budget items.

There is also a process that requires the school districts if they are going to go above the 104% cap as a result of the budget amendment, they would need to get the superintendent's approval first before they go above that amount. If they have a budget amendment that doesn't put them above, they don't need the superintendent's approval.

Section 12 amendment explains which ones need approval from OPI. Further into a new section, it is found that there is an additional process whereby budget amendments that they want to carry forward into the next year above that 104% have to get approval from the superintendent to do that; for example, an enrollment increase such as 100 new students coming into a school because of a gold mine opening up in that area.

Instead of doing an emergency budget every year, it would be possible to do an emergency process in the first year to get the enrollment increase and then a process to get that approved to their base in subsequent years. So that going above the caps will have to undertake some scrutiny by the OPI for districts to continue to operate above it.

Section 26 - Maximum General Fund Budget deals with approved budget amendments from the previous school fiscal year to be added to the base for the calculation of the 104% cap. An attempt is being made so that districts will know that they are allowed to carry over their PL874 receipts.

Section 35 - bonding limits for school districts. Although cities and counties were allowed to include coal, oil and gas flat tax in their bonding limits, school districts were omitted. This section makes it clear that school districts can include the value of the flat tax receipts for coal, oil and gas as far as their bonding limits are concerned. It was pointed out that this

was important since taxable value is lost from their tax base for bonding purposes in HB 28.

Section 44 - an amendment to handicapped preschoolers in the definition of eligible transportees. It was recalled that handicapped preschoolers had to start receiving services but since it didn't tie into the transportation program, it would have been difficult for the district to pay for those transportees although it is their responsibility.

Section 47 - State Transportation Reimbursement. HB 28 limited what the state would pay for education to 180 days of pupil instruction. The transportation payment was overlooked at that time so what this does is make it clear that transportation is also paid for 180 days.

Section 48 makes changes to be consistent with past practices in the property tax law whereby there is provision for local government options to give exemptions to newer expanding industries. Under the old law the 45 mills that was there for school equalization, didn't allow the counties or cities to exempt statewide levies. There was a constitutional reason why this could not be allowed.

The changes in Section 48 make it clear that the 55 referred to also applied to the 40 mills statewide levy. Local governments would still have the same authority that they had before but when HB 28 was written, the 40 mill statewide was overlooked and that is added into Section 48.

Section 50 - a new section which would make requirement necessary from OPI in order for districts to add expenditures approved in the previous year's budget amendment to its base. Examples cited were a base building budget amendment like an enrollment increase that was going to go on for future years versus a non-base building amendment like a school boiler blowing up. The speaker explained that if a school boiler should blow up, it would need immedicate attention but there would not be a need to to levy at that higher expenditure level for each following year because the boiler expenditure would probably constitute a one expenditure for that particular year. To get budget amendments to appear in the base for ensuing years, it will require OPI approval. It could be added in the first year and become part of the base.

The reasons for needing retroactive applicability were discussed as being a way for a school district to address the emergency budget so that sections could be retroactively applicable to the current year so that districts who had had a maintenance emergency or an enrollment increase could take care of that expenditure without exceeding their budget.

Representative Paula Darko, a member of the Interim Committee, proposed an amendment to Section 11 of the bill dealing with protestor tax money, tax audits and delinquent taxes and the

ability to spend above the cap. Representative Darko used as an example a mine in the area she represents which was allowed to protest deductions against their taxes going through district, supreme and circuit courts. They eventually lost their appeal. This was money due the school district. It was anticipated and built into the budget but was not there. The school postponed some projects because they did not have the money expected.

Chip Erdman of the recently organized Montana Rural Education Association also discussed this amendment and presented written testimony which is enclosed. He discussed the exception for when taxes are protested that a budget amendment is allowed for those and that becomes an exception to the cap. That would not be automatic.

Under the bill the trustees would have to make a determination that it was for a project that they deferred in that year that they were protested. At that time the school must apply to OPI for permission to spend the taxes. There are two situations that fall into that situation: (1) Tax audit. Taxes have not been protested but the Department of Revenue does a tax audit determining that more taxes should have been paid for a particular year. The school would have been entitled to the money in that particular year and might have postponed projects because of lack of funds. (2) Delinquent taxes paid in a future year. School district would be deprived use of funds.

It was proposed that both taxes received as the result of a tax audit or delinquent taxes be considered the same way that the bill envisioned; i. e., the settlement of protested taxes be paid. Without this type of amendment, school districts would not have the opportunity to request a budget amendment from OPI.

Senator Nathe asked where the money for protested taxes now goes. Mr. Erdman said that money from protested taxes now go into a protest account. The way it works is that they pay their taxes under protest on time and the treasury is required to hold those in protest account with interest. The funds stay there until a decision is made. There are savings that allow school districts to borrow against the fund. The problem comes when the Department of Revenue doesn't prevail in the tax laws. At that time it would be necessary to pay back money borrowed and interest lost.

Senator Nathe asked about the distribution of funds after the tax dispute is settled, where the money then goes and how is it used.

Mr. Erdman: The freed up money gets distributed back to the taxing jurisdictions based on the mill levy of the year of dispute. So in the case of the Bonneville Power litagations, there have been protested taxes building up since 1985. They are in a protesting fund and eventually some portion of those will be distributed. Each year they were paid under protest, they get distributed on those mill levys. Cities and counties can use

that money because they are not under a budget cap but the school districts are not able to spend that money in the year they receive it.

Senator Nathe: What fund does it go into for the school district?.

Mr. Erdman: The money goes into the same fund that it would have gone into the year that the taxes were protested. A portion might go to general fund, a portion to transportation, building bonds, etc.,

Senator Nathe: Does the money go into the reserve funds or where?

Mr. Erdman: In the year that it is receipted, the money would go into the general fund. Because it couldn't be spent, at the end of the year, it would go to the reserves.

Senator Nathe: If the money went to reserves, would it be used to reduce mill levys?

Mr. Erdman: If the money went to reserves, it would be used to reduce mill levys the next year.

Dorie Neilson, MREA, discussed working on the bill in which she described a "cleanup" policy of terms by striking one word and inserting another without changing the meaning but rather clarifying the direction of the bill.

Madeline Quinlan, OPI, testified on behalf of an amendment asking the committee to reestablish the individual income tax and corporate license tax allocations to the public school equalization account. (Written testimony is attached). SB 28 established allocations of the individual income tax and the corporate license tax to the school equalization account for Fiscal 1990-91 but those allocations expired in that bill.

Because the allocations expired, the revenues were undesignated and state law says that when revenues are undesignated, they automatically go to the general fund. Ms Quinlan said that as a legislative staff person last session, it was her recollection that they had the revenue estimates for the individual and corporate license tax in Fiscal 1990-91 and they set the allocations accordingly to fund the school account. She said that she believed it was the intention at that time to come into the current session and reestablish those allocations based on future revenue estimates. The allocations to the school account were established 50 years ago in the 1941 session and schools have received money from these two sessions ever since.

The allocations that are being requested are 41.3% of the individual income tax and 28.5% of the corporate license tax plus the same allocations that we have now in Fiscal 91. The amount

of money being considered according to the LFA estimate is 290 million. The executive estimate is 295 million. The executive budget already has 240 million dollar general fund appropriation built in for schools.

If the allocations are restored, it will bring in revenue to fully fund the foundation program at 4.5% increase in Fiscal 92 and 4.8% increase the following year. (It is compounded on the Fiscal 92 increase). In total, the increase would be approximately 58 million dollars. There would be 19 million the first year and by compounding, it would be brought up to 39 million the second year.

Ms Quinlan pointed out that by passing the amendment, it will also restore the debt service payments. The long range individual income tax and corporate license tax have up until now been allocated to the debt service account to pay off long range building or general obligation bonds of the state. These allocations also were eliminated in HB 28.

Senator Blaylock called upon Eddye McClure to present any other amendments which she might have from OPI. Ms. McClure said that the amendment she had was the one presented by Dorie Nelson, OPI, Amendment No. 24, which included the change on Page 51 which would change the word "amount" to "permissive amount" for clarification.

Senator Fritz called for the testimoney of any other proponents the bill. He also requested that persons in the room sign the witness register.

Bruce Moerer, SBA, in support of the amendments (Section 11) presented by Representative Darko. He cited as example, the particular needs at present time of the Sidney School District. He said that they are having problems with a certain type of roof, 10 years old, which is cracked and in need of repair because of heavy snows. Right now they don't have enough budget authority to repair the roof unless they use monies designated for other school plans such as the purchase of computers, repair and maintenance work, etc., They need something like this budget amendment to allow them to increase their expenditures. They have enough monies in their reserves but without the budget amendment process, they can't spend their reserves to repair the roof.

Mr. Moerer discussed the need to be able to use monies received late from a tax audit to accomplish those expenditures deferred from previous years. He said that they are legitimate functions on a one time basis that are needed. The speaker also stated that he felt that Section 7 and Section 11 need to be consistent in that the reasons given for exceeding reserves and for excceding budget need to be the same.

Mr. Moerer discussed the Bonneville Power litagation and how it

had affected the schools in Boulder, Deerlodge and Superior.

Testimony was offered by Tom Cotton, Superintendent of School District I, Deerlodge. He said that the school has over one million dollars in protested taxes which they have not been able to use. They want to know that they will be able to use the funds once they are released with monies going into accounts that they they were originally intended to go into.

Mr. Cotton expressed concern that their school district has not advanced in the areas of educational technology because they haven't had the funds to buy computers, textbooks and other needed equipment. He also expressed major concern regarding a serious need for maintenance and repairs that need to be made to school buildings, repair and replacement of busses and other transportation vehicles. He said that they have deferred replacement of items that they cannot do without any longer. He mentioned that seven western Montana counties are facing similar situations and are gravely concerned regarding school needs. They feel that their school children are suffering as a result.

Senator Nathe: The lawsuits go on where you are involved with a federal entity. Is there any way that they are going to be able to try to move this into a federal district court and continue for another 7-8 years.

Mr. Erdman: We are concerned that the power companies have been lobbying the solicitor general to have the federal supreme court hear it and if that happens, we are looking at another year and a half. The problem is that all of these cases are not put together. We just got a three year decision but each one was an individual case. We are now looking at 1987-89 as individual cases. Those have not yet been brought before the Montana State Supreme Court.

Senator Nathe: Were they trying to move directly to the Supreme Court?

Mr. Erdman: Yes.

Senator Nathe: They were by-passing the federal district court and the circuit court of appeals?

Mr. Erdman: Yes, that is correct.

Senator Nathe: And that has been denied in your case?

Mr. Erdman: Only in the 1984. 1985, 1986 and 1987 have just been heard. They have 90 days to appeal that to the solicitor general. If they put it into the U. S. Supreme court, they will decide and we are looking probably at 18 months whether that will be heard.

Senator Nathe: You will know in 90 days for sure whether you

have your million dollar settlement?

Mr. Erdman: Not really. I don't know how long it can be held before it is appealed. They have 90 days to decide whether they will appeal it.

Senator Paul Svrcek testified in support of SB 17. Mineral County which is affected by the BPA protest is in his jurisdiction. The school districts in Mineral County have been under the weight of this protest for several years and they have asked me to give voice to their support for this bill. Senator Svrcek said that the people have asked him to assure the committee that if and when these protested funds come in, that they will be used for deferred expenditures and will not be used to pump up the caps.

The following people testified in support of SB 17 as amended on Page 53:

Alec Hanson, Montana League of Cities,
Craig Jones from D. A. Davidson,
Judy Tilman, Director of Butte-Silverbow Revitalization Committee

They discussed the integrity of bonds and also the reduction in school levies which has occurred across the state in many places as a result of HB 28 which has interrupted the revenue stream.

In 1989, the Legislature agreed in the language which is stricken from the amendment that there would be a reimbursement to cities who would lose as a result of lower school levies. Problems have arisen as a result of the interpretation of that particular section.

Intentions were to (1) clarify some of those questions with regard to how reimbursement is calculated and (2) to reinsert the language to make sure that this dedicated revenue for the payment of these bonds is protected. There are six cities involved which have increment districts. Five of the cities would receive reimbursement under this amendment. The reimbursement is the difference between the amount generated by the increment district on school taxes in 1989 and the amount generated in subsequent years. Once the school levies in those particular areas reach 1989 levels, there would be no more reimbursement.

Discussion led by Craig Jones regarding bondholders having a right to expect this protection and that tax increment financing is a development tool that has worked very well for the cities. He said that he hoped that the committee would agree with this amendment.

Mr. Jones said that a removal of a source of revenue dedicated to the repayment of those bonds sends a message that bonds have no backing and there will be no guarantees once bonds are issued. It will cause much discontent in the capital market place which

may affect the borrowing rate of future local governments.

Mrs. Tilaman said that their city has bonds outstanding and are depending upon that revenue. She said that she also wanted to point out that they have a 10 year, $100,000 a year obligation to the Butte-Silverbow School District. They use these funds to make the bond payment on the high school rennovation. Eliminating this reimbursement could affect our ability to r reimburse them the amount owed.

Richard Moe, Superintendent, Boulder Public Schools: During the height of the protest situation, for 1986-87, for example: the Jefferson High School (in our district) experienced a shortfall of $153,366 in one year. The elementary school district that same year experienced a shortfall of $97,000. The school district which is only composed of about 470 students and has experienced a quarter of a million dollar shortfall in one year in the general fund budget.

He said that the school has not been able to do the programming or buy the textbooks needed by our school classrooms. Even with the equalization law which has improved the situation for the school, it is calculated that this year because of the local levy and the impact of the protested taxes on local levies, there will be a shortfall in the local high school district of $40,622 and a shortfall in our elementary district of $58,721.

Also testifying in support of SB 17:

Senator Tom Beck
Tom Bilodeau, Montana Education Association
Terry Minow, Montana Federation of Teachers
Jess Long, Montana Superintendents Association
Kay McKenna, MT School Superintendents.

Senator Fritz called for opponents to SB 17.

There were no opponents.

DATE 1-11-91

COMMITTEE ON Education

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Tom Cotton	Dist #1		✓	
WALT PIEPPO	SUPT - DRUMMOND DIST #2011		✓	
Paul Stahl	self	SB29	✓	
Debra Kehr	Helena School Dist #1	SB29	✓	
PAUL SUZZEK	Sen. DIST 26	SB17	✓	
Paula Darko	H.D. #2	SB17	✓	
Dani S. Schmit	Supt. Pryor Pub			
Eric Feaver	MEA	SB32		✓
Jim McCoy	S.A.I.A.	SB17	✓	
Terry MINOW	MFT	SB17	✓	
Sen Dan Boyd	Sen Dist 24	SB17	✓	
Richard Moe	Supt. - Boulder Dist #1 #7	SB17	✓	
Alec Hansen	League of Cities	S17	amend	
Judie Tilman	Butte-Silver Bow	S17	amend	
Jerry Peterson	PCHS. Deer Lodge	S17	✓	
Tom BILODEAU	MEA	SB17	✓	
CHIP ERDMANN	MT Rural Ed Association	SB17 WAIVE ✓ SB32		X
Jack Copps	OPI	SB32		X
Kaetlen Holden	OPI	SB32		X
Bruce W. Moore	MSBA	SB32		X
"	"	SB17	X	
"	"	SB29		

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By SENATOR CHET BLAYLOCK, on February 6, 1991, at 3:00 P. M.

ROLL CALL

Members Present:

Chet Blaylock, Chairman (D)
Harry Fritz, Vice Chairman (D)
Robert Brown (R)
Bill Farrell (R)
H.W. Hammond (R)
Dennis Nathe (R)
Dick Pinsoneault (D)
Mignon Waterman (D)
Bill Yellowtail (D)

Staff Present: Eddye McClure (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 27

Presentation and Opening Statement by Sponsor:

Representative Foster, District 32, presented HB 27 an act to exempt a school district from the Nepotism law in the employment of a substitute teacher.

The sponsor pointed out one addition that was made by the House Education Committee on Page 2, Lines 3-4, which he felt was a good addition to the bill. It limits the number of consecutive days that the substitute could teach.

The speaker said that part of the problem is that the present law on nepotism does not directly address how substitute teachers are going to be hired. School districts have interpreted the law differently. In those areas where a strict interpretation has been made, substitute teachers have been put into a real tough situation especially those who are certified because the usual way that they want to be certified is to spend time in the classroom. If they can't do that, they are forced to take college courses and an examination for certification. This is

Closing by Sponsor:

Senator Gage closed the hearing on SB 234. He urged support of the bill since he feels that there are provisions made for geographic situations but also feels that if going to a different school is simply a parental choice situation, then the school accepting those students should be reimbursed by the parents or the state but not the residence school district.

EXECUTIVE ACTION ON SB 17

Discussion:

See Exhibit No. 5.

Motion:

SENATOR BROWN MOVED that Amendment to SB 17, No. 280945SC.SJI, DO PASS. Vote was unanimous. MOTION CARRIED.

SENATOR BROWN MOVED that SB 17 as amended DO PASS. Vote was unanimous. MOTION CARRIED.

EXECUTIVE ACTION ON HB 175

Motion:

SENATOR WATERMAN MOVED that HB 175 DO PASS. Seven voted aye; one voted no. (Senator Hammond). MOTION CARRIED.

Carrier for the Senate - J. D. Lynch.

EXECUTIVE ACTION ON HB 27

Motion:

SENATOR NATHE MOVED that HB 27 DO PASS; Seven voted aye; one voted no. (Senator Pinsoneault) MOTION CARRIED.

Carrier for the Senate - Francis Koehnke.

SENATE STANDING COMMITTEE REPORT

February 7, 1991

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 17 (first reading copy -- white), respectfully report that Senate Bill No. 17 be amended and as so amended do pass:

1. Title, line 15.
Following: "VALUATION;"
Insert: "TO EXTEND THE ALLOCATION OF PERCENTAGES OF THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE AND INCOME TAX TO THE STATE GENERAL FUND, THE DEBT SERVICE ACCOUNT FOR LONG-RANGE BUILDING PROGRAM BONDS, AND THE STATE EQUALIZATION AID ACCOUNT FOR PUBLIC SCHOOLS;"

2. Title, line 16.
Following: "SECTIONS"
Insert: "15-1-501,"

3. Title, line 21.
Strike: "20-9-361,"

4. Page 16, line 7.
Following: "receipts"
Insert: "received under the provisions of chapter 7, part 4, or this part"

5. Page 16, line 8.
Following: "in"
Insert: "a separate account of"

6. Page 16, lines 12 and 13.
Following: "budget"
Strike: remainder of line 12 through "20-9-141" on line 13

7. Page 20, line 10.
Following: "receipts"
Insert: "received under the provisions of chapter 7, part 4, or this part"

8. Page 20, line 11.
Following: "in"
Insert: "a separate account of"

9. Page 20, lines 15 and 16.
Following: "budget"
Strike: "and used in the manner provided for in 20-9-141"

BEST COPY AVAILABLE

10. Page 21, line 14.
Following: "subsections"
Strike: "(3)"
Insert: "(5)"
Following: "and"
Strike: "(4)"
Insert: "(6)"

11. Page 22, line 3.
Following: "receipts."
Insert: "(3) Any unreserved fund balance that is equal to or less than the prior year's excess reserves as provided in subsection (5) may be used to fund the permissive levy provided by 20-9-145 or the voted levy provided by 20-9-353.
(4)"
Renumber: subsequent subsections

12. Page 22, line 5.
Strike: "earmarked" through "purposes"
Insert: "reserved under subsection (2) or reappropriated under subsection (3)"
Following: second "~~cash~~" on line 5
Insert: "fund balance"

13. Page 22, lines 11 and 12.
Following: "received"
Strike: the remainder of line 11 through "year" on line 12

14. Page 22, lines 13 and 14.
Following: "received" on line 13.
Insert: ": (i)"
Following: "protested" on line 14.
Insert: "in a"
Following: "prior"
Strike: "to July 1, 1990"
Insert: "school fiscal year"
Following: ";" on line 14.
Insert: "(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and
(iii) in delinquent taxes from a prior school fiscal year;"

15. Page 22, lines 9 through 16.
Following: "(2)"
Strike: the remainder of line 9 through "(b)" on line 16
Following: "county" on line 16
Strike: "commissioners"
Insert: "superintendent"

BEST COPY AVAILABLE

16. Page 25, line 21.
Following: line 20
Strike: "(i)"
Insert: "(a)"

17. Page 25, line 24.
Following: line 23
Strike: "(ii)"
Insert: "(b)"

18. Page 27, lines 22 through 25.
Following: "is"
Strike: "." on line 22 through "(b)" on line 25

19. Page 28, lines 18 through 21.
Following: "receipt of" on line 18.
Insert: ": (a)"
Following: "year" on line 19.
Insert: "; (b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;
(c) delinquent taxes from a prior school fiscal year;"
Following: "and" on line 19.
Insert: "(d)"
Following: "of the" on line 20.
Strike: "settlement amount"
Insert: "taxes received under subsection (5)(a), (5)(b), or (5)(c)"

20. Page 28, line 22.
Strike: "general fund"

21. Page 29, line 21.
Strike: "expenditures within"

22. Page 29, line 24.
Following: line 23
Strike: "superintendent of public instruction"
Insert: "county superintendent and to the board of county commissioners of the county"

23. Page 31, line 17.
Following: "20-9-313"
Insert: "or is for the reasons provided in 20-9-161(5) and 20-9-161(6)"

24. Page 34, line 21.
Following: "from"
Strike: "106% of"

BEST COPY AVAILABLE

25. Page 36, line 21.
Following: "with"
Insert: "certain and"

26. Page 51, line 21.
Following: "amount"
Insert: "and the permissive amount"

27. Page 52, lines 12 through 17.
Following: "~~(1)~~"
Insert: "(1)"
Following: "~~proceeds~~" on line 17
Strike: "Proceeds"
Insert: "Except as provided in subsection (2), proceeds"

28. Page 54, line 7, following line 6.
Insert: "(2) For the benefit of each municipality that created an urban renewal area and adopted a tax increment financing provision for the urban renewal area prior to July 1, 1990, the state treasurer shall distribute each fiscal year from the state equalization aid levy to the municipality the amount, if any, equal to the product of the incremental taxable value of the urban renewal area times the reduced school levy for the area, each calculated for the fiscal year. The reduced school levy for a fiscal year is the difference between the aggregate amount of all property tax levies for school purposes in the urban renewal area, expressed in mills, in the fiscal year ended June 30, 1989, and the aggregate amount of all property tax levies for school purposes in the area or the district, expressed in mills, in the fiscal year, including the state equalization aid levy. The state treasurer shall distribute the amounts to municipalities in two equal installments on December 31 and June 30 of the fiscal year."

29. Page 54, lines 7 through 18.
Strike: section 31 in its entirety
Renumber: subsequent section

30. Page 73, line 14.
Following: "and"
Insert: "the county commissioners shall"

31. Page 73, lines 17 through 24.
Following: "(8)"
Strike: the remainder of line 17 through "(b)" on line 24

BEST COPY AVAILABLE

32. Page 73, line 24
Following: "county"
Strike: "commissioners"
Insert: superintendent

33. Page 74, line 4.
Strike: "(i)"
Insert: "(a)"

34. Page 74, line 7.
Strike: "(ii)"
Insert: "(b)"

35. Page 77, line 5.
Following: "other"
Strike: "district"
Following: "sources"
Insert: "provided in 20-5-307(4), 20-5-312(8), and 20-9-321(3)"

36. Page 77, line 10.
Following: "reimbursement of"
Insert: "miscellaneous program fund"

37. Page 90, line 15.
Following: line 14
Insert: "Section 47. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone company license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:

(a) ~~57% in fiscal year 1990 and 50% in fiscal year 1991,~~ 59.5% to the credit of the state general fund;

(b) ~~9.8% in fiscal year 1990 and~~ 8.7% ~~in fiscal year 1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

BEST COPY
AVAILABLE

(c) ~~33.2% in fiscal year 1990 and 41.3% in fiscal year 1991,~~ 31.8% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

(a) ~~64% in fiscal year 1990 and~~ 61% ~~in fiscal year 1991,~~ to the credit of the state general fund;

(b) ~~11% in fiscal year 1990 and~~ 10.5% ~~in fiscal year 1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~25% in fiscal year 1990 and~~ 28.5% ~~in fiscal year 1991~~ to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(4) The state treasurer shall also deposit to the credit of the state general fund all money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund.""

Renumber: subsequent sections

39. Page 100, line 9.
Following: "through"
Insert: "46 and 48 through"

39. Page 100, line 12.
Following: "through"
Strike: "50"
Insert: "46, 48 through 57,"

40. Page 100, line 14.
Following: "(2)"
Strike: "[sections 51 through 54] are"
Insert: "[section 47] is"

Signed: _____
Chet Blaylock, Chairman

_____
Amd. Coord.

2-7 1:30
_____
Sec. of Senate

BEST COPY AVAILABLE

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Chairman Ted Schye, on March 14, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Ted Schye, Chairman (D)
Ervin Davis, Vice-Chairman (D)
Steve Benedict (R)
Ernest Bergsagel (R)
Robert Clark (R)
Vicki Cocchiarella (D)
Fred "Fritz" Daily (D)
Alvin Ellis, Jr. (R)
Gary Feland (R)
Gary Forrester (D)
Floyd "Bob" Gervais (D)
H.S. "Sonny" Hanson (R)
Dan Harrington (D)
Tom Kilpatrick (D)
Bea McCarthy (D)
Scott McCulloch (D)
Richard Simpkins (R)
Barry "Spook" Stang (D)
Norm Wallin (R)
Diana Wyatt (D)

Staff Present: Eddye McClure, Legislative Council
Dianne McKittrick, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: **CHAIRMAN SCHYE** announced HB 940 would be researched in a subcommittee consisting of **REP. STANG, Chair, REP. COCCHIARELLA** and **REP. HANSON.**

HEARING ON SB 84

Presentation and Opening Statement by Sponsor:

SENATOR JUDY JACOBSON, Senate District 36, Butte, said SB 84 would define corporal punishment, abolish its use in schools and more clearly define what is meant by "restraint of a child". Physical abuse is banned in prisons, psychiatric hospitals, military schools, and the Department of Family Services does not

Upon careful research and investigation, all decided to cover the bases and proceed with legislation.

Closing by Sponsor:

SEN. FRITZ presented written testimony and said, "at the risk of making an ash of myself, there are those of us who pine for this bill". **EXHIBIT 8.**

HEARING ON SB 17

Presentation and Opening Statement by Sponsor:

SENATOR CHET BLAYLOCK, Senate District 43, Laurel, said SB 17 deals with general clean-up of HB 28 resulting from an interim study of the bill.

Proponents' Testimony:

Bruce Moerer, Montana School Boards Association, (MSBA), said although the MSBA opposed HB 28 and continues to be unhappy with the current funding system, SB 17 does make improvements and is a good bill. One major improvement allows a budget amendment for emergencies and another allows exceeding the cap on a one-time basis for the purpose of spending protested taxes. A number of districts such as Deer Lodge and Superior were hit by the BPA tax protest and desperately need this assistance. This legislation allows those districts to pursue projects that were deferred due to the lack of money.

John Malee, Montana Federation of Teachers, (MFT), presented written testimony. **EXHIBIT 9**

Larry Blades, Superintendent, Joliet Schools, said operating under the Generally Acceptable Accounting Principles, (GAPP), requires districts to no longer run special education monies through one budget. The Joliet High School budget is capped at 104%. Since the Joliet School District previously ran special education dollars through the elementary budget, $18,000 now needs to be transferred into the capped high school budget. If SB 17 is not passed, the district will lose that $18,000 of General Fund authority given by the voters since the cap will be exceeded.

Mike Reynolds, Superintendent, Absarokee, said the Absarokee School District was alarmed when dealing with legislation that not only provided caps, but also required using GAPP. While operating under a 104% cap, the district had to roll $30,000 into the high school budget from the elementary budget for special education. SB 17 addresses the problem in Section 50, page 98, allowing these costs to be entered into this year's budget figures, while at the same time calculating a new cap.

Jesse Long, School Administrators of Montana, (SAM), said SB 17

importantly addresses the problem of how to adequately spend protested taxes as they come back to the districts.

Pat Melby, Underfunded School Coalition, said although the coalition did not support HB 28 and continues to think it does not adequately address the school equalization issue, SB 17 makes crucial changes in the system. This legislation provides relief for districts caught in unusual financial difficulties.

Kay McKenna, Montana Association of County School Superintendents, (MACSS), stated support for SB 17.

Phil Campbell, Montana Education Association, (MEA), stated support for SB 17.

Opponents' Testimony: None

Informational Testimony:

Dori Nielsen, Office of Public Instruction, (OPI), said the OPI worked with the legislative oversight committee in the interim on HB 28. The committee was present when the changes were taking place and as a result SB 17 deals with many of the complications and imperfections that appeared upon implementation of HB 28. Several semantic language cleanups appear dealing with changes resulting from the GAAP and covering an expansive territory of clarification. SB 17 deals with tuition and unanticipated tuition from year to year, clarifying calculations for GTB, fixing and levying mills, clarifying the budget amendment process, and dealing with expenditures that are legitimate but above limit, including protested taxes.

Questions From Committee Members:

REP. STANG asked **Greg Groepper** to discuss protested taxes and how SB 17 deals with them. **Greg Groepper** said very simply when back taxes are received districts would be allowed to spend the monies on deferred expenditures in excess of the cap. **REP. STANG** asked who decides on what these monies can be spent; the OPI, school boards, county commissioners? **Mr. Groepper** answered, if within the 104% budget limit it is the decision of the trustees, and if above the 104% budget cap a request for a budget amendment must be made to the Superintendent of Public Instruction. The request is then reviewed and if within the law proceeds to the school board and then to a public hearing for citizen input. Once due process is followed it becomes a board decision.

REP. STANG asked **Mr. Groepper** if the entire amount received would have to be spent in one year. **Mr. Groepper** said the money stays with the district. The district could deposit an amount in the reserves in excess of the 20% limit for future use. There is nothing in this legislation promoting a "spend it or lose it" philosophy. The only restriction is the money must be used on deferred expenditures. Districts are unable to set up a new set

of obligations with this one time money.

REP. STANG asked **Mr. Groepper** if a district could use the money in one year to bond or pay a portion of the bonds to fund a capital improvement project that was put off for a number of years due to low tax base and protested taxes **Mr. Groepper** answered yes.

Closing by Sponsor:

SEN. BLAYLOCK thanked the committee and passed out an amendment to SB 17. **EXHIBIT 10**

HEARING ON SB 117

Presentation and Opening Statement by Sponsor:

SENATOR BOB PIPINICH, Senate District 33, Missoula, said SB 117 allows security guards of the Montana University System to carry firearms upon completion of the basic course at the Montana Law Enforcement Academy. They would be allowed to carry firearms in accordance with the policies established by the Board of Regents and upon consultation with the governing student bodies on each university campus.

Proponents' Testimony:

LeRoy Schramm, Legal Counsel, University System, testified in behalf of the Board of Regents, the Commissioner of Higher Education, and the six campuses of the University System. He said campuses tend to be thought of as idyllic places, but in the last few years some of the biggest news stories have been stories of incidents of violence on college campuses. College campuses are not immune to violence.

The campus security guards are in most cases former police officers, trained at the Law Enforcement Academy. They frequently face situations at married student housing and attest to the fact there is nothing more dangerous than a domestic dispute. The guards are capable of addressing a distraught armed spouse at night, but not during the day. To ask these guards to go into a situation with both arms tied behind their backs is unacceptable! The regents need flexibility to address this issue.

Tom Schneider, Montana Public Employees Association, (MPEA), said law currently allows security police to carry firearms at night so obviously this is not a question of being qualified. This legislation simply allows the decision to be one of local control and a campus to campus decision.

John Malee, Montana Federation of Teachers, (MFT), stated support for SB 117.

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL **DATE** 3-14-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

CS05ED.MAN

actually #9

EXHIBIT #7
DATE 3/14/91
SB 17

MONTANA FEDERATION OF TEACHERS

AMERICAN FEDERATION OF TEACHERS, AFL-CIO

Box 1246 Helena, Montana 59624 (406) 442-2123

Jim McGarvey
President

TESTIMONY OF BUDDY MALEE ON SB17 BEFORE THE HOUSE EDUCATION COMMITTEE, MARCH 14, 1991.

Mr. Chairman, members of the committee, my name is Buddy Malee and I represent the Montana Federation of Teachers. I appear before you today in support of SB17.

The Montana Federation of Teachers supports this bill not only as a piece of clean-up legislation but also because it includes many important changes in school financing.

A good example is in Jefferson County. Here BPA protested taxes resulted in the on-going deferral of necessary expenditures. This bill will ensure that school districts like Boulder's are able to meet the needs of our children. The Montana Federation of Teachers had planned to introduce a bill on this issue and we are pleased that the issue appears to have been addressed in this bill.

As you may remember, the MFT did not support the so-called equalization bill when it passed during the special session. However, we feel obligated to support legislation that will improve school finance law and so we urge your support of SB17.

Thank you Mr. Chairman.

EXHIBIT 10
DATE 3-14-91
SB 17

Amendments to Senate Bill No. 17
Third Reading Copy (Blue)

For the House Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 6, 1991

1. Page 104.
Following: line 6
Insert: "NEW SECTION. **Section 57. Coordination instruction.** If House Bill No. 580 is passed and appproved and if it includes a section that amends 20-9-366, then [section 31 of this act], amending 20-9-366, is void."
Renumber: subsequent sections

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Chairman Ted Schye, on April 2, 1991, at 12:15 p.m.

ROLL CALL

Members Present:

Ted Schye, Chairman (D)
Ervin Davis, Vice-Chairman (D)
Steve Benedict (R)
Ernest Bergsagel (R)
Vicki Cocchiarella (D)
Alvin Ellis, Jr. (R)
Gary Forrester (D)
Floyd "Bob" Gervais (D)
H.S. "Sonny" Hanson (R)
Dan Harrington (D)
Tom Kilpatrick (D)
Bea McCarthy (D)
Scott McCulloch (D)
Richard Simpkins (R)
Barry "Spook" Stang (D)
Norm Wallin (R)
Diana Wyatt (D)

Members Excused: Reps. Daily, Clark, Feland

Staff Present: Andrea Merrill, Legislative Council
Dianne McKittrick, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HJR 49

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE HOWARD TOOLE, House District 60, Missoula, said this is a resolution for an Interim Committee Study funded by the Legislature to explore the possibility of lengthening the school year. America's 180 day school year should not be automatically accepted on a permanent basis since many other countries have an extended school year, greatly affecting competitiveness in world markets. **REP. TOOLE** presented written testimony from Lester Thurow, Massachusetts Institute of Technology. **EXHIBIT 1**

REP. MCCARTHY asked **REP. TOOLE** if he considered requesting funding from the State Board of Public Education or the Office of Public Instruction. **REP. TOOLE** answered if HJR 49 passes, the question of funding will come up at the end of session and there are various ways to approach it.

Closing by Sponsor:

REP. TOOLE said the business world in the US is concerned about education. Many people in the business community are talking about the current education system. It merits a serious look and careful consideration.

EXECUTIVE ACTION ON SB 82

Motion: **REP. STANG** moved SB 82 **BE CONCURRED IN.**

Discussion: **CHAIRMAN SCHYE** said this bill costs money and if passed would be re-referred to the Appropriations Committee. It is not an appropriations bill but it does take money.

Vote: Motion **CARRIED** upon voice vote 11 to 7 with **REPS. BENEDICT, BERGSAGEL, ELLIS, FELAND, HANSON, SIMPKINS,** and **WALLIN** voting no.

EXECUTIVE ACTION ON SB 17

Motion: **REP. STANG** moved SB 17 **BE CONCURRED IN.**

Motion/Vote: **CHAIRMAN SCHYE** moved to adopt amendments to SB 17. **EXHIBIT 2** Motion **CARRIED** unanimously.

Discussion: **REP. SIMPKINS** questioned protested taxes being given to the school districts. The money is given on the state level and then when the protested taxes are paid the districts also receive that money. Is that correct? **Jan Thompson, Office of Public Instruction, (OPI),** answered that currently when protested taxes are paid the district must reimburse the state. **REP. STANG** explained this simply allows the school districts to make up for funds they couldn't spend because of 105. This bill allows districts to spend a portion of what the local taxpayers raise. **REP. SIMPKINS** said some protests result in very sizeable amounts of money. Local taxpayers should receive the refund, not the school system. **Dori Nielson, OPI,** explained this is not a "double-dip". School districts keep only district mill protested taxes.

Motion/Vote: **REP. STANG** made a substitute motion SB 17 **BE CONCURRED IN AS AMENDED.** Motion carried 11 to 7 with **REPS. BENEDICT, BERGSAGEL, ELLIS, FELAND, HANSON, SIMPKINS** and **WALLIN** voting no.

EXECUTIVE ACTION ON HJR 49

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL **DATE** 4-2-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK			✓
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY			✓
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND			✓
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

CS05ED.MAN

2:07 PM

4/2/91 mo

HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Mr. Speaker: We, the committee on Education and Cultural Resources report that Senate Bill 17 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Ted Schye, Chairman

Carried by: Rep. Nelson

And, that such amendments read:

1. Page 104, line 7.
Following: line 6
Insert: "NEW SECTION. Section 57. Coordination instruction. If House Bill No. 580 is passed and approved and if it contains a section amending 20-9-366, then the amendments to 20-9-366 in [this act] are void."

Renumber: subsequent sections

2. Page 104, line 12.
Strike: "57"
Insert: "58"

8/9/91

FREE CONFERENCE COMMITTEES RECEIVED

HOUSE w/ minutes

HB 33
HB 93
HB 391
HB 500
HB 977

SENATE w/ minutes

SB 66
SB 94
SB 171
SB 196
SB 226 ok (1\2)
SB 251
SB 267
SB 333
SB 343
SB 379 — SB 428
SB 440

STANDING COMMITTEE REPORTS ONLY (no minutes)

HOUSE

HB 20
HB 151

SENATE

SB 16
SB 17
SB 37
SB 49
SB 51
SB 57
SB 58
SB 77
SB 154
SB 191
SB 192
SB 199
SB 204
SB 246
SB 249
SB 266
SB 272
SB 301
SB 326
SB 327
SB 370
SB 425
SB 428
SB 434
SB 436
SB 441
SB 462

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 17
Representative Darko

April 5, 1991 9:23 am

Mr. Chairman: I move to amend Senate Bill 17 (third reading copy -- blue).

Signed: Paula Darko
Representative Darko

And, that such amendments to Senate Bill 17 read as follows:

1. Page 22, line 13.
Following: "TO"
Strike: "FUND"
Insert: "reduce"

2. Page 22, line 14.
Following: "OR"
Insert: "to reduce"

ADOPT

REJECT

HOUSE SB 17

SENATE BILL NO. 17

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE LEGISLATIVE OVERSIGHT

COMMITTEE ON SCHOOL FUNDING IMPLEMENTATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE SCHOOL LAW IN COMPLIANCE WITH NEW SCHOOL FUNDING PROVISIONS AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR SCHOOL DISTRICTS; TO ALLOW A DISTRICT TO AMEND THE ADOPTED GENERAL FUND BUDGET AND TO EXCEED ANY APPLICABLE BUDGET LIMITATION IN CERTAIN CIRCUMSTANCES; TO ALLOW SCHOOL DISTRICTS TO TRANSPORT PRESCHOOL SPECIAL EDUCATION STUDENTS; TO LIMIT STATE TRANSPORTATION REIMBURSEMENT TO 180 PUPIL-INSTRUCTION DAYS; TO ADJUST THE SCHOOL DISTRICT BONDING LIMITATION TO COMPENSATE FOR CHANGES IN DISTRICT TAXABLE VALUATION; TO EXTEND THE ALLOCATION OF PERCENTAGES OF THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE AND INCOME TAX TO THE STATE GENERAL FUND, THE DEBT SERVICE ACCOUNT FOR LONG-RANGE BUILDING PROGRAM BONDS, AND THE STATE EQUALIZATION AID ACCOUNT FOR PUBLIC SCHOOLS; AMENDING SECTIONS 15-1-501, 15-24-1402, 20-3-106, 20-3-205, 20-3-324, 20-5-307, 20-5-312, 20-7-713, 20-9-104, 20-9-141, 20-9-142, 20-9-145, 20-9-161, 20-9-162, 20-9-163, 20-9-164, 20-9-165, 20-9-166, 20-9-201, 20-9-206, 20-9-208, 20-9-209, 20-9-210, 20-9-214, 20-9-221, 20-9-231, 20-9-301, 20-9-315, 20-9-321, 20-9-344, 20-9-353, 20-9-360, ~~20-9-361,~~ 20-9-366, 20-9-367, 20-9-368, 20-9-406, 20-9-435, 20-9-438, 20-9-439, 20-9-471, 20-9-501, 20-9-504, 20-9-505, 20-9-507, 20-10-101, 20-10-143, 20-10-144, 20-10-145, AND 20-15-404, MCA; REPEALING SECTIONS 15-10-103, 20-9-111, AND 20-9-167, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of the state, and he shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

(5) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of

20-6-311;

(6) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

(7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

(8) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;

(9) establish a system of communication for calculating joint district revenues in accordance with the provisions of 20-9-151;

(10) approve or disapprove the adoption of a district's ~~emergency~~ budget amendment resolution under the conditions prescribed in 20-9-163 and ~~publish~~ adopt rules for an application for additional state aid for ~~an--emergency~~ a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

(11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

(12) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the county superintendents to

report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

(13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

(14) distribute state equalization aid in support of the foundation program and guaranteed tax base aid, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366 through 20-9-369;

(15) distribute state impact aid in accordance with the provisions of 20-9-304;

(16) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

(17) approve or disapprove an adult education program for which a district proposes to levy a tax in accordance with the provisions of 20-7-705;

(18) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;

(19) authorize the use of federal money for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

(20) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

(21) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of 20-1-303 and 20-1-304;

(22) recommend standards of accreditation for all schools to the board of public education and evaluate compliance with the standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

(23) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

(24) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of 20-7-201;

(25) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

(26) as the governing agent and executive officer of the state of Montana for K-12 vocational education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

(27) supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

(28) administer the traffic education program in

accordance with the provisions of 20-7-502;

(29) administer the school food services program in accordance with the provisions of 20-10-201, 20-10-202, and 20-10-203;

(30) review school building plans and specifications in accordance with the provisions of 20-6-622;

(31) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of 20-1-408;

(32) provide schools with information and technical assistance for compliance with the student assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for the board of public education and the legislature;

(33) administer the distribution of guaranteed tax base aid for county retirement levy obligations in accordance with 20-9-366 through 20-9-369; and

(34) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

Section 2. Section 20-3-205, MCA, is amended to read:

"**20-3-205. Powers and duties.** The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

(1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(2) administer and file the oaths of members of the boards of trustees of the districts in his county in accordance with the provisions of 20-3-307;

(3) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(4) act on each tuition application submitted to him in accordance with the provisions of 20-5-301, 20-5-302, 20-5-304, and 20-5-311 and transmit the tuition information required by 20-5-312;

(5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(7) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of 20-6-103;

(8) fulfill all responsibilities assigned to him under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(9) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(10) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(11) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and ~~emergency budgets~~ budget amendments, and fulfill ~~such~~ other responsibilities assigned to him under the provisions of this title regulating school budgeting systems;

(13) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

(14) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-334, 20-9-347, 20-10-145, or 20-10-146;

(15) act on any request to transfer average number belonging (ANB) in accordance with the provisions of 20-9-313(3);

(16) calculate the estimated budgeted general fund

sources of revenue in accordance with the provisions of 20-9-348 and the other general fund revenue provisions of the general fund part of this title;

(17) compute the revenues and the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(18) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(19) for districts ~~which~~ that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(20) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(21) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(22) perform any other duty prescribed from time to time

by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction;

(23) administer the oath of office to trustees without the receipt of pay for administering the oath;

(24) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to his successor;

(25) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(a) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(b) the total receipts that were realized in each fund maintained by the district;

(c) the total expenditures that were made from each fund maintained by the district; and

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal

year; and

(26) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed."

Section 3. Section 20-3-324, MCA, is amended to read:

"**20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school

elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or ~~an~~ **emergency** a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, foundation program, permissive, additional levy, ~~cash~~ operating reserve, and state impact aid ~~amount~~ amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund, and interlocal cooperative agreement fund in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks,

vocational education, and special education parts of this title;

(18) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(19) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(20) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to his child;

(21) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

(22) procure and display outside daily in suitable weather at each school of the district an American flag that measures not less than 4 feet by 6 feet;

(23) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not

accredited, as required in 20-5-110; and

(24) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

Section 4. Section 20-5-307, MCA, is amended to read:

"**20-5-307. Budgeting, levy requirement, and paying elementary tuition.** (1) The tuition amount that has been established in 20-5-305 ~~shall~~ must be paid during the ensuing school fiscal year. The trustees of the elementary district shall include ~~such~~ the amount in the tuition fund of the preliminary budget. If the trustees should fail to include ~~such~~ the amount or any portion of it in the preliminary budget, they shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. ~~Such~~ The adjustment ~~shall not be~~ is not subject to the budget adjustment provisions of 20-9-132.

(2) The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the second Monday of August, and a levy on the district ~~shall~~ must be made by the county commissioners in accordance with 20-9-142. ~~Such~~ The levy requirement ~~shall~~ must be calculated by subtracting from the total expenditure amount authorized in the final tuition

fund budget the sum of the ~~cash~~ fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated ~~moneys~~ money that may be realized in the tuition fund.

(3) The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of 20-5-306. At least one-half of the payments must be made in December, and the remaining payments must be made by June 15 of the fiscal year.

(4) Any unanticipated tuition receipts RECEIVED UNDER THE PROVISIONS OF CHAPTER 7, PART 4, OR THIS PART for the current school fiscal year must be deposited in A SEPARATE ACCOUNT OF the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget ~~and used in the manner provided for in 20-9-141.~~"

Section 5. Section 20-5-312, MCA, is amended to read:

"**20-5-312. Reporting, budgeting, and payment for high school tuition.** (1) Except as provided in subsection (2), at the close of the school term of each school fiscal year, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the actual expenditures from the district

general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (1)(a) above by the ANB of the district as determined under the provisions of 20-9-311; and

(c) subtracting from the amount determined in subsection (1)(b) the per-ANB amount allowed by the foundation program schedules and the per-ANB amount of guaranteed tax base aid as provided in 20-9-366 through 20-9-369.

(2) The tuition for a full-time high school special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time high school special education pupils as designated in 20-9-311 for funding purposes.

(3) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, have the authority

to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(4) When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the superintendent of each district in which the reported pupils reside.

(5) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved tuition agreements, he shall determine the total amount of tuition due the out-of-district high schools on the basis of the following per-pupil schedule: the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided by each high school district where resident district pupils have attended school.

(6) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a high school outside the county of residence must be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent shall cause the payment by county warrant of at least one-half of the high school tuition obligations established under this section out of the first money realized from the county

basic special tax for high schools. The remaining obligations must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer of the county where each high school entitled to tuition is located. ~~The~~ Except as provided in subsection (8), the county treasurer shall credit tuition receipts to the general fund of the applicable high school district, and the tuition receipts must be used in accordance with the provisions of 20-9-141.

(7) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall report the net tuition fund levy requirement for each high school district to the county commissioners on the second Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the ~~cash~~ fund balance in the tuition

fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification. Payments must be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer.

(8) Any unanticipated tuition receipts RECEIVED UNDER THE PROVISIONS OF CHAPTER 7, PART 4, OR THIS PART for the current school fiscal year must be deposited in A SEPARATE ACCOUNT OF the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget ~~and used in the manner provided for in 20-9-141.~~"

Section 6. Section 20-7-713, MCA, is amended to read:

"**20-7-713. Adult basic education fund ~~cash~~ operating reserve.** At the end of each school fiscal year, the trustees

of ~~any~~ a school district that operates an adult basic education program may designate ~~what~~ the portion of the adult basic education fund end-of-the-year ~~cash~~ fund balance that is to be earmarked as ~~cash~~ operating reserve for the purpose of paying, whenever a cash flow shortage occurs, adult basic education fund warrants issued by the district from July 1 through June 30 of the ensuing school fiscal year. The amount of the adult basic education fund ~~cash~~ balance that is earmarked as ~~cash~~ operating reserve may not exceed 35% of the final adult basic education fund budget for the ensuing school fiscal year."

Section 7. Section 20-9-104, MCA, is amended to read:

"**20-9-104. General fund ~~cash~~ operating reserve.** (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year ~~cash~~ fund balance that is to be earmarked as ~~cash~~ operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections ~~(3)~~(5) and ~~(4)~~(6), the amount of the general fund ~~cash~~ balance that is earmarked as ~~cash~~ operating reserve may not exceed the following percentages of the final general fund budget for the ensuing school fiscal year:

(a) 35% for a district that did not receive state

equalization aid during the current school fiscal year;

(b) 30% for a district that received state equalization aid equal to 25% or less of its foundation program schedule entitlement in the current school fiscal year; and

(c) 20% for a district that received state equalization aid equal to more than 25% of its foundation program schedule entitlement in the current school fiscal year.

(2) The amount held as ~~cash~~ operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) ANY UNRESERVED FUND BALANCE THAT IS EQUAL TO OR LESS THAN THE PRIOR YEAR'S EXCESS RESERVES AS PROVIDED IN SUBSECTION (5) MAY BE USED TO ~~FUND~~ REDUCE THE PERMISSIVE LEVY PROVIDED BY 20-9-145 OR TO REDUCE THE VOTED LEVY PROVIDED BY 20-9-353.

(4) Any portion of the general fund end-of-the-year ~~cash~~ fund balance that is not ~~earmarked for cash operating reserve purposes~~ RESERVED UNDER SUBSECTION (2) OR REAPPROPRIATED UNDER SUBSECTION (3) is ~~cash~~ FUND BALANCE reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

~~(3)~~(5) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) any amount received ~~during the current school~~

~~fiscal-year~~ under Public Law 81-874;

(b) the unused balance of any amount received:

(I) in settlement of tax payments protested IN A prior ~~to July 1, 1990~~ SCHOOL FISCAL YEAR;

(II) IN TAXES FROM A PRIOR SCHOOL FISCAL YEAR AS A RESULT OF A TAX AUDIT BY THE DEPARTMENT OF REVENUE OR ITS AGENTS; AND

(III) IN DELINQUENT TAXES FROM A PRIOR SCHOOL FISCAL YEAR; or

(c) any amount received as a general bonus payment under 20-6-401.

~~(4)~~(6) The limitation of subsection (1) does not apply when the amount earmarked as ~~cash~~ operating reserve is $10,000 or less."

Section 8. Section 20-9-141, MCA, is amended to read:

"**20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the amount established by the schedules in 20-9-316 through 20-9-321 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided

in 20-9-303; and

(ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-145 and 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund ~~cash~~ balance reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(vi) anticipated net proceeds taxes for interim production and new production, as defined in 15-23-601;

(vii) anticipated revenue from local government

severance taxes as provided in 15-36-112;

(viii) anticipated revenue from coal gross proceeds under 15-23-703;

(ix) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4);

(x) anticipated revenue from corporation license taxes collected from financial institutions under the provisions of 15-31-702; and

(xi) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year ~~which~~ that may be used to finance the general fund, excluding any guaranteed tax base aid.

(c) ~~Subtract~~ Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from ~~the--total requirement-determined-in-subsection-(1)(a).~~ any additional general fund budget amount adopted by the trustees of the district as the permissive amount under the provisions of 20-9-145 to determine the general fund permissive net levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional funding requirement to be met by a district levy as provided

in 20-9-303 and 20-9-353 to determine the additional general fund levy requirement.

(2) ~~(a) For a district that is eligible for guaranteed tax base aid under the provisions of 20-9-367, the county superintendent shall provide the board of county commissioners with the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction, to fund the general fund permissive net levy requirement.~~

~~(b)~~ The county ~~commissioners~~ SUPERINTENDENT shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund permissive net levy requirement by dividing the amount determined in subsection (1)(c) by the sum of:

~~(i)~~(A) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

~~(ii)~~(B) the taxable valuation of the district divided by 1,000.

~~(2)~~(3) The net general fund levy requirement determined in ~~subsection (1)(c)~~ subsections (1)(c) and (1)(d) must be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund permissive net levy requirement and the additional general fund levy requirement for the district, and a levy must be

made set by the county commissioners in accordance with 20-9-142."

Section 9. Section 20-9-142, MCA, is amended to read:

"**20-9-142. Fixing and levying taxes by board of county commissioners.** On the second Monday in August, the county superintendent shall place before the board of county commissioners the final adopted budget of the district ~~and any emergency budget adopted by the district during the previous school fiscal year~~. It ~~shall be~~ is the duty of the board of county commissioners to fix and levy on all the taxable value of all the real and personal property within the district all district and county taxation required to finance, within the limitations provided by law, the final budget ~~and any emergency budget of the district~~."

Section 10. Section 20-9-145, MCA, is amended to read:

"**20-9-145. ~~O~~verschedule permissive** Permissive **amount of general fund budget -- permissive levy.** Whenever the trustees of ~~any~~ a district determine it necessary to adopt a general fund budget in excess of the foundation program amount for that district, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. This amount is the "permissive amount" and may not exceed ~~[the equivalent of the percent to be determined that is 112% of FY 1988 district general fund and insurance fund expenditures]~~ 35%

of the foundation program amount. It must be financed by ~~the district and established as provided in 20-9-142~~ a levy on the taxable value of all property within the district, by any guaranteed tax base aid for which the district may be eligible, and by other revenue available to the district for other than foundation program support."

Section 11. Section 20-9-161, MCA, is amended to read:

"**20-9-161. Definition of emergency** budget amendment **for budgeting purposes.** As used in this title, unless the context clearly indicates otherwise, the term "**emergency**" "budget amendment" for the purpose of school budgeting ~~shall~~ **be** means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district ~~over the immediately preceding school fiscal year which~~ that is:

~~[a] at least 6% more than the enrollment of the preceding school fiscal year; and~~

~~[b]~~ beyond what could reasonably have been anticipated at the time of the adoption of the budget for the ~~then current~~ current school fiscal year whenever, because of ~~such~~ the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or ~~any~~ act of God, to ~~such~~ an extent ~~as--to--render--such~~ rendering school property unfit for its present school use;

(3) a judgment for damages against the district ~~rendered~~ issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district; ~~or~~

(5) receipt of:

(A) settlement of taxes protested in a prior school fiscal year;

(B) TAXES FROM A PRIOR SCHOOL FISCAL YEAR AS THE RESULT OF A TAX AUDIT BY THE DEPARTMENT OF REVENUE OR ITS AGENTS;

(C) DELINQUENT TAXES FROM A PRIOR SCHOOL FISCAL YEAR; and

(D) a determination by the trustees that it is necessary to expend all or a portion of the ~~settlement amount~~ TAXES RECEIVED UNDER SUBSECTION (5)(A), (5)(B), OR (5)(C) for a project or projects that were deferred from a previous ~~general-fund~~ budget of the district as a result of the protested taxes; or

~~(5)~~(6) any other ~~reason--of-similar-consequences-that~~

~~has--been--approved--by---the---superintendent---of---public instruction-upon-petition-by-the-trustees-of-the-district-or by--the--board-of-regents-upon-petition-by-the-trustees-of-a community-college-district~~ unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting the safety of the students and district employees or the educational functions of the district."

Section 12. Section 20-9-162, MCA, is amended to read:

"**20-9-162. Authorization for emergency budget** amendment **adoption. Emergency---budgets** (1) Notwithstanding the provisions of subsections (2) and (3), a budget amendment may be adopted at any time of the school fiscal year, except that ~~emergency-budgets~~ a budget amendment required by an enrollment increase that could not have been anticipated at the time of the adoption of the regular budget as provided in 20-9-161(1) may not be adopted until after ~~December-31~~ October 1.

(2) If a budget amendment for the reasons provided in 20-9-161(1) through (4) does not cause the district general fund budget to exceed the limitations in 20-9-315, the trustees may approve ~~expenditures--within~~ the budget amendment by a resolution as provided in 20-9-163. The trustees shall send a copy of the resolution to the ~~superintendent--of--public-instruction~~ COUNTY SUPERINTENDENT

AND TO THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY.

(3) The trustees shall submit the following to the superintendent of public instruction for approval in the manner provided in 20-9-163:

(a) a budget amendment for the reasons provided in 20-9-161(5) and (6); and

(b) a budget amendment for any reason provided in 20-9-161(1) through (4) that causes the district general fund budget to exceed the limitations in 20-9-315."

Section 13. Section 20-9-163, MCA, is amended to read:

"20-9-163. Resolution for ~~emergency~~ budget amendment -- petition to superintendent of public instruction ~~or to the board of regents~~. (1) ~~Whenever~~ Notwithstanding the provisions of subsection (3), whenever the trustees of ~~any~~ a district decide that ~~an emergency exists~~ a budget amendment is necessary, they may adopt a resolution proclaiming ~~such emergency~~ the budget amendment by a ~~unanimous~~ majority vote of ~~all members present at any meeting for which each trustee has been given reasonable notice of the time and place of holding such meeting~~ the trustees. The ~~emergency~~ budget amendment resolution ~~shall~~ must also state the facts constituting the ~~emergency~~ need for the budget amendment, the estimated amount of money required to ~~meet the emergency~~ fund the budget amendment, the funds affected by ~~the emergency~~ the budget amendment, and the time and place when

the board will meet for the purpose of considering and adopting ~~an emergency~~ a budget amendment for ~~such~~ funds for the current school fiscal year.

(2) If the trustees ~~decide that an emergency exists for any reason other than the conditions specified in subsections (1), (2), (3), or (4) of 20-9-161, they shall petition the superintendent of public instruction or, in the case of a community college district, the board of regents for permission to adopt a resolution of emergency. Such petition shall set forth in writing the reasons for the request, the district funds affected by the emergency, the estimated amount of money required to meet such emergency for each affected fund, the anticipated sources of financing for the emergency expenditures, and such other information as may be required by the superintendent of public instruction or the board of regents. The petition shall be signed by each trustee.~~ of a school district determine that the proposed budget amendment will cause the district general fund to exceed the limitations of 20-9-315 OR IS FOR THE REASONS PROVIDED IN 20-9-161(5) AND 20-9-161(6), the trustees shall petition the superintendent of public instruction for permission to adopt a resolution for a budget amendment. The petition must set forth in writing the reasons for the request, the district funds affected by the budget amendment, the estimated amount of money required for

the budget amendment for each affected fund, the anticipated sources of financing for the budget amendment expenditures, and any other information required by the superintendent of public instruction. The petition must be signed by a majority of the trustees.

(3) The superintendent of public instruction ~~or, in the case of a community college district, the board of regents~~ shall promptly approve or disapprove the petition requesting approval to adopt a resolution ~~of emergency~~ for a budget amendment. If the petition is approved, the trustees may ~~then~~ adopt a resolution ~~of emergency~~ for a budget amendment and ~~may subsequently~~ take all other steps required for the adoption of ~~an emergency~~ a budget amendment. Approval of a petition by the superintendent of public instruction ~~or the board of regents shall merely authorize~~ authorizes the board of trustees to initiate ~~emergency~~ a budget ~~proceedings~~ amendment by resolution and ~~shall~~ does not relieve the trustees of the necessity of complying with the requirements of the school ~~emergency~~ budgeting laws. Approval of the petition ~~shall~~ may not be construed as approval of any subsequent application for increased state aid on account of ~~such emergency~~ the budget amendment."

Section 14. Section 20-9-164, MCA, is amended to read:

"**20-9-164. Notice of emergency budget** amendment **resolution.** A copy of the ~~emergency~~ budget amendment

resolution ~~shall~~ must be published one time in a newspaper that will give notice to the largest number of people of the district as determined by the trustees, and a copy of the resolution ~~shall~~ must be posted at each schoolhouse of the district. A copy of the ~~emergency~~ budget amendment resolution ~~shall~~ must also be delivered to the county superintendent and to the county clerk as the clerk of the board of county commissioners of the county. The publication, posting, and delivery of the resolution ~~shall~~ must be done not less than 1 week before the day specified in the resolution for the consideration and adoption of ~~an emergency~~ a budget amendment."

Section 15. Section 20-9-165, MCA, is amended to read:

"**20-9-165. ~~Emergency budget~~** Budget amendment **limitation, preparation, and adoption procedures.** (1) The meeting of the trustees to consider and adopt ~~an emergency~~ a budget ~~shall~~ amendment must be open to the public, and any taxpayer in the district ~~shall have~~ has the right to appear and be heard. If at ~~such a~~ the meeting a majority of the trustees present ~~shall~~ find that ~~an emergency exists~~ there is sufficient need for a budget amendment, the trustees may make and adopt a preliminary ~~emergency~~ budget amendment, on the regular budget form, setting forth fully the facts constituting the ~~emergency~~ need for the budget amendment. In adopting the preliminary ~~emergency~~ budget amendment, the

trustees may budget for any fund ~~which~~ that was included on the final budget of the district for the current school fiscal year. The budget ~~shall~~ must be itemized to show the amount appropriated for each item as required on the budget form.

(2) When the ~~emergency~~ budget amendment is ~~due--to--any increase~~ the result of increased enrollment, the maximum amount of the ~~emergency~~ budget amendment for all funds ~~shall~~ must be determined in the following manner:

(a) Determine the total amount in the final budget for the current school fiscal year of all funds affected by the ~~emergency~~ enrollment increase, less any amounts appropriated as capital outlay and any amount appropriated for addition to the ~~cash~~ operating reserve.

(b) Divide the amount determined in subsection (2)(a) by the number of pupils originally enrolled in ~~such~~ the district during the immediately preceding school fiscal year. The resulting cost per pupil ~~shall constitute~~ is the maximum permissible per-pupil expenditure in the ~~emergency~~ budget amendment.

(c) Determine the enrollment increase of the current school fiscal year by subtracting the number of pupils originally enrolled during the immediately preceding school fiscal year from ~~106% of~~ the number of pupils enrolled for the current school year. The result ~~shall--be~~ is the

enrollment increase for the current school fiscal year.

(d) Multiply the cost per pupil determined in subsection (2)(b) by the enrollment increase determined in subsection (2)(c). The result ~~shall--be~~ is the maximum limitation on ~~an---emergency~~ a budget amendment for ~~emergencies~~ amendments ~~due to an increase of~~ resulting from increased enrollment.

~~(e)--In--the--case--of--a--community college district, by budget amendment.~~

(3) ~~In the event of any other--type--of--emergency~~ For other types of budget amendments, the budget ~~shall be~~ amendment is limited ~~by those~~ to the expenditures ~~deemed~~ considered by the trustees to be reasonable and necessary to finance the ~~stated~~ conditions of the ~~emergency~~ budget amendment and the preliminary ~~emergency~~ budget ~~shall~~ amendment must ~~be accompanied with~~ include the details of the proposed expenditures.

(4) Whenever the trustees adopt a preliminary ~~emergency~~ budget amendment for the transportation fund, the trustees shall attach to ~~such~~ the budget amendment a copy of each transportation contract ~~which~~ that is connected with the ~~emergency~~ budget amendment and ~~which~~ that has been prepared and executed in accordance with the school transportation contract laws.

(5) After the trustees have adopted the ~~emergency~~

budget amendment by a majority vote of the trustees, it ~~shall~~ must be signed by the chairman of the trustees and the clerk of the district and copies ~~shall~~ must be sent to the county superintendent, the county treasurer, and the superintendent of public instruction. ~~In--the--case--of--a community-college-district,-copies-of-the--emergency--budget shall--be--sent--to--the--county--superintendent,-the-county treasurer,-and-the-board-of-regents.~~"

Section 16. Section 20-9-166, MCA, is amended to read:

"**20-9-166. State financial aid for emergency--budgets** budget amendments. Whenever a final **emergency** budget amendment has been adopted for the general fund or the transportation fund to finance the cost of an **emergency** amendment ~~due-to-an~~ resulting from increased enrollment or any other reason approved by the superintendent of public instruction under the provisions of 20-9-163, the trustees may apply to the superintendent of public instruction for an increased payment from the state public school equalization aid account for the foundation program or for state transportation reimbursement, or both. The superintendent of public instruction shall ~~publish~~ adopt rules for ~~such~~ the application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with 20-9-314 AND this section. When the superintendent of public instruction approves an

application, he shall determine the additional amount of state aid from the state public school equalization aid account or the state transportation reimbursement ~~which~~ that will be made available to the applicant district because of the ~~emergency--caused--by--an~~ increase in enrollment. The superintendent of public instruction shall notify the applicant district of his approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse ~~such-emergency~~ the state aid to the eligible district at the time the next regular state aid payment is made."

Section 17. Section 20-9-201, MCA, is amended to read:

"**20-9-201. Definitions and application.** (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law or by the superintendent of public instruction under the provisions of subsection (2). Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend money from the fund. The general fund, transportation fund, bus depreciation reserve fund, ~~elementary~~ tuition fund, retirement fund, debt service

fund, ~~leased-facilities-fund,~~ building reserve fund, adult education fund, nonoperating fund, and any other funds ~~so~~ designated by the legislature are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend money on deposit in the fund. The school food services fund, miscellaneous ~~federal~~ programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, extracurricular fund, metal mines tax reserve fund, endowment fund, and any other funds ~~so~~ designated by the legislature are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district ~~except-the--extracurricular--money--realized from--pupil-activities~~. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. ~~He~~ The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) Except as otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and

will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to the general fund if the fund does not have a cash or fund balance deficit."

Section 18. Section 20-9-206, MCA, is amended to read:

"**20-9-206. Entering appropriations on accounting records of county treasurer.** (1) When the county treasurer receives the final budgets of the districts from the county superintendent, he shall open a fund for each budgeted fund included on the final budget of each district by entering the amount appropriated for the fund on his accounting record.

(2) Whenever the county treasurer receives a final ~~emergency~~ budget amendment for a district from the county superintendent, he shall increase the amount of the regularly adopted final budget by the amount of ~~the emergency--budgeted--fund included--on~~ the final ~~emergency~~ budget amendment."

Section 19. Section 20-9-208, MCA, is amended to read:

"**20-9-208. Transfer among appropriation items of a fund.** (1) Whenever it appears to the trustees of ~~any~~ a district that the appropriated amount of ~~any~~ an item of a budgeted fund of the final budget or ~~the emergency~~ a budget amendment is in excess of the amount actually required during the school fiscal year for ~~such~~ the appropriation

item, the trustees may transfer any or all of the excess appropriation amount to any other appropriation item of the same budgeted fund.

(2) ~~Such--transfers--shall~~ Transfers may not be made between different funds of the same district or between similar funds of different districts except as specifically provided by this title. The trustees shall enter the authorized transfers upon the permanent records of the district."

Section 20. Section 20-9-209, MCA, is amended to read:

"**20-9-209. Lapse of budgeted appropriations and provision for unpaid claims.** (1) All appropriations for a budgeted fund in the regular ~~or emergency~~ budget or for a budget amendment for a given school fiscal year ~~shall~~ lapse on the last day of ~~such~~ the school fiscal year except the appropriations for:

(a) uncompleted improvements in progress of construction; and

(b) ~~any~~ an obligation for the purchase of personal property ordered but not paid for during the current fiscal year and recorded with the county treasurer in the manner and on forms prescribed by the superintendent of public instruction.

(2) ~~Any~~ A lawful claim presented to the district for payment under a lapsed appropriation ~~shall--be~~ is an

obligation of the budget for the next ensuing school fiscal year."

Section 21. Section 20-9-210, MCA, is amended to read:

"**20-9-210. Expenditure limitation and ~~cash retention~~ of nonbudgeted fund.** The expenditure limitation, at any time during the school fiscal year, for a nonbudgeted fund ~~shall~~ be is the amount of cash balance of ~~such~~ the nonbudgeted fund. ~~The cash balance of a nonbudgeted fund shall remain to the credit of such nonbudgeted fund from year to year unless a transfer is specifically authorized by this title.~~"

Section 22. Section 20-9-214, MCA, is amended to read:

"**20-9-214. Fees.** (1) The trustees of ~~any~~ a district may:

(a) require pupils in the commercial, industrial arts, music, domestic science, scientific, or agricultural courses to pay reasonable fees to cover the actual cost of breakage and of excessive supplies used; and

(b) charge pupils a reasonable fee for ~~any~~ a course or activity not reasonably related to a recognized academic and educational goal of the district or ~~any~~ a course or activity held outside normal school functions. The trustees may waive the fee in cases of financial hardship.

(2) The fees collected pursuant to ~~subsection (1) shall~~ be subsection (1)(a) must be deposited in the general fund, and the fees collected pursuant to subsection (1)(b) must be

deposited in a nonbudgeted fund as provided in 20-9-210."

Section 23. Section 20-9-221, MCA, is amended to read:

"20-9-221. Procedure for issuance of warrants. (1) The trustees of each district shall issue all warrants, and the warrants ~~shall~~ must identify:

(a) the budgeted fund or nonbudgeted fund on which the warrant is drawn; and

(b) the warrant as ~~an--emergency~~ a budget amendment warrant if it is drawn on ~~an-emergency~~ a budget amendment.

(2) ~~Any-warrant~~ All warrants issued by a district ~~shall~~ must be countersigned by the chairman of the trustees and the clerk of the district before the ~~warrant-shall-be~~ warrants are negotiable. Facsimile signatures may be used in accordance with the provisions of 2-16-114. A facsimile signature device used under authority of this section ~~must~~ may not be available to the other countersigner of the warrant, or the device must have a nonresettable metering control that can provide a positive reconciliation between the number of warrants issued and the number of signatures applied. Either split signature plates or a double signature plate may be used according to the requirements of the district. The signature plates and the device keys must be kept secure by the district clerk under the supervision of the board of trustees of the district.

(3) The trustees shall issue warrants in single copy or

in triplicate copy. When the warrants are issued in single copy, the trustees shall immediately provide a listing of the issued warrants on a fund-by-fund basis to the county treasurer and retain a copy of the listing in the district accounting records. When the warrants are issued in triplicate, the original copy of the warrant ~~shall~~ must be delivered to the payee, the duplicate ~~shall~~ must be sent immediately to the county treasurer, and the triplicate ~~shall~~ must be retained by the district for accounting record purposes. The duplicate and triplicate copies ~~shall~~ must be identified on the face of the warrant as "Not Negotiable--Copy of Original".

(4) However, the trustees may elect to issue warrants in payment of wages and salaries on a direct deposit basis to the employee's account in a local bank, provided the consent of the employee has been obtained and the employee is given an itemized statement of payroll deductions for each pay period."

Section 24. Section 20-9-231, MCA, is amended to read:

"20-9-231. Metal mines tax reserve ~~account~~ fund. (1) The governing body of a local school district receiving tax collections under 15-37-117(1)(d) may establish a metal mines tax reserve ~~account~~ fund to be used to hold the collections. The governing body may hold money in the ~~account~~ fund for any time period ~~deemed~~ considered

appropriate by the governing body. Money held in the ~~account~~ fund may not be considered as ~~cash~~ fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the ~~account~~ fund for any purpose provided by law.

(3) Money in the ~~account~~ fund must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve ~~account~~ fund must be credited to the ~~account~~ fund.

(4) The fund must be financially administered as a nonbudgeted fund under the provisions of this title."

Section 25. Section 20-9-301, MCA, is amended to read:

"**20-9-301. Purpose of foundation program and definition of general fund budget.** (1) A uniform system of free public schools sufficient for the education of and open to all school age children of the state must be established and maintained throughout the state of Montana. The state shall aid in the support of its ~~several~~ school districts on the basis of their financial need as measured by the foundation program and in the manner established in this title.

(2) The principal budgetary vehicle for achieving the minimum financing as established by the foundation program is the general fund budget of the district. The purpose of the general fund budget is to finance those general maintenance and operational costs of a district not financed

by other funds established for special purposes in this title.

(3) The amount of the general fund budget for each school fiscal year may not exceed the financing limitations established by this title but may not be less than the amount established by law as the foundation program. The general fund budget must be financed by the foundation program revenues and may be supplemented by ~~an additional~~ a permissive levy, voted levy ~~and~~, or other revenue, as provided by 20-9-145 and 20-9-353."

Section 26. Section 20-9-315, MCA, is amended to read:

"**20-9-315. Maximum general fund budget and exceptions.** (1) The total amount of the general fund budget of ~~any~~ a district may not be greater than the district's foundation program as provided in 20-9-303, except when a district has adopted ~~an emergency general fund~~ a budget amendment under the provisions of 20-9-165 or when a district satisfies the requirements of 20-9-145 and 20-9-353.

(2) Notwithstanding the provisions of subsection (1), for school fiscal year 1991 and succeeding years, a district's maximum general fund budget may not exceed the greater of:

(a) ~~[the equivalent of the percent to be determined that is 112% of PY 1988 district general fund and insurance fund expenditures]~~ 135% of the foundation program amount

provided for in 20-9-303; or

(b) 104% of the district's general fund budget amount for the previous school fiscal year, including any school district expenses from the previous school fiscal year approved for inclusion in this calculation by the superintendent of public instruction under [section 50].

(3) Subsection (2) does not apply when the source of funding for the excess amount is any of the following:

(a) Public Law 81-874 funds ~~are the source of funding for the excess amount~~, until the state receives approval of an application to equalize the funds under 20 U.S.C. 240(d); or

(b) general bonus payments under 20-6-401."

Section 27. Section 20-9-321, MCA, is amended to read:

"**20-9-321. Foundation program and contingency funds for special education.** (1) For the purpose of establishing the foundation program amount for a current year special education program for a school district, the superintendent of public instruction shall determine the total estimated cost of the special education program for the school district on the basis of a special education program budget submitted by the district. The budget must be prepared on forms provided by the superintendent of public instruction and must set out for each program:

(a) the estimated allowable costs associated with

operating the program where allowable costs are as defined in 20-7-431;

(b) the number of pupils expected to be enrolled in the program; and

(c) any other data required by the superintendent of public instruction for budget justification purposes and to administer the provisions of 20-9-315 through 20-9-321.

(2) The total amount of allowable costs approved by the superintendent of public instruction is the special education foundation program amount for current year special education program purposes. The total amount of allowable costs that are approved for the special education budget may not, under any condition, be less than the foundation program amount for one regular ANB for each full-time special pupil in the school district.

(3) If a special education program is implemented or expanded during a given school term too late to be included in the determination of the district foundation program for the school year as prescribed in this part, allowable costs approved under the budgeting provisions of subsections (1) and (2) for the operation of the program during the given year must be funded from any legislative appropriation for contingency financing for special education. Contingency funds granted under this subsection must be deposited in a separate account of the miscellaneous programs fund of the

district as provided in 20-9-507. However, if contingency funds are not available, then subject to the approval of the program by the superintendent under the emergency budget amendment provisions of 20-9-161~~(5)~~(6), allowable costs for the given year may be funded in the miscellaneous programs fund by other revenue sources and added to the foundation program amount for special education for the subsequent school year under the provisions of [section 50]. The allowable costs must be recorded as previous year special education expenses in the school district budget for the subsequent school year.

(4) The sum of the previous year special education expenses as defined in subsection (3) and the foundation program amount for current year special education as defined in subsections (1) and (2) is the special education budget for accounting purposes.

(5) The foundation program amount for special education must be added to the foundation program amount of the regular program ANB defined in 20-9-311 and 20-9-313 to obtain the total foundation program amount for the district."

Section 28. Section 20-9-344, MCA, is amended to read:

"20-9-344. Purpose of state equalization aid and duties of the board of public education for distribution -- conditions of first payment. (1) The money available for

state equalization aid must be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings and grounds, and transportation.

(2) The board of public education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law and in a manner that provides for monthly distribution to each district of its foundation program amount and to each county and district distribution of its guaranteed tax base aid;

(b) have the power to require reports from the county superintendents, budget boards, county treasurers, and trustees as it considers necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public

education may not increase or decrease the state equalization aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(3) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(4) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(5) If a district or county receives more state equalization aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the ~~department---of----commerce~~ superintendent of public instruction.

(6) (a) The first foundation program payment and

guaranteed tax base aid payment must be based on an estimate of 20% of the entitlement of each district or county and distributed by July 15 of the school fiscal year.

(b) Each subsequent monthly payment must be at least 7% of the entitlement of each district or county."

Section 29. Section 20-9-353, MCA, is amended to read:

"**20-9-353. Additional levy for general fund -- election for authorization to impose.** (1) Except as limited by 20-9-315(2), the trustees of **any** a district may propose to adopt a general fund budget in excess of the foundation program and the permissive amount for the district for any of the following purposes:

(a) building, altering, repairing, or enlarging any schoolhouse of the district;

(b) furnishing additional school facilities for the district;

(c) acquisition of land for the district;

(d) proper maintenance and operation of the school programs of the district; or

(e) severance pay for district employees.

(2) When the trustees of **any** a district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount AND THE PERMISSIVE AMOUNT, the trustees shall submit the proposition of an additional levy to raise

the excess amount of general fund financing to the electors who are qualified under 20-20-301 to vote upon the proposition, except that an election is not required to permit the school trustees to use any funds available to finance the additional amount other than those funds to be raised by the additional levy. The special election must be called and conducted in the manner prescribed by this title for school elections. The ballot for the election must state only the amount of money to be raised by additional property taxation, the approximate number of mills required to raise the money, and the purpose for which the money will be expended. The ballot must be in the following format:

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in the number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional tax levy is made)?

☐ FOR the levy.

☐ AGAINST the levy.

(3) If the election on any additional levy for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount

in adopting the preliminary general fund budget. The trustees shall certify the additional levy amount authorized by the special election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141, to raise the amount of the additional levy.

(4) Authorization to levy an additional tax under the provisions of this section is effective for only 1 school fiscal year and must be authorized by a special election conducted before August 1 of the school fiscal year for which it is effective."

Section 30. Section 20-9-360, MCA, is amended to read:

"20-9-360. State equalization aid levy. ~~(1)~~ (1) There is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204. ~~Except as provided in subsection (2),~~ proceeds Proceeds EXCEPT AS PROVIDED IN SUBSECTION (2), PROCEEDS of the levy must be remitted to the state treasurer and must be deposited to the credit of the state special revenue fund for state equalization aid to the public schools of Montana.

~~(2) For the benefit of each municipality that created~~

~~an--urban-renewal-area-and-adopted-a-tax-increment-financing provision-for-the-urban-renewal-area-prior-to-July-1,--1990, each-year-the-state-treasurer-shall-distribute-to-the-county an--amount--of--the-state-equalization-levy-equal-to-the-tax increment-derived-by-the-municipality-for--the--fiscal--year ending--June--30,-1989,-from-the-levy-for-property-taxes-for school-district-purposes-against-property-within--the--urban renewal--district,-less-the-amount-of-tax-increment-actually received-by-the-municipality-in-each-year-as-a-result-of-the imposition-of-mill-levies-for-school-district-purposes.~~

(2) FOR THE BENEFIT OF EACH MUNICIPALITY THAT CREATED AN URBAN RENEWAL AREA AND ADOPTED A TAX INCREMENT FINANCING PROVISION FOR THE URBAN RENEWAL AREA PRIOR TO JULY 1, 1990, THE STATE TREASURER SHALL DISTRIBUTE EACH FISCAL YEAR FROM THE STATE EQUALIZATION AID LEVY TO THE MUNICIPALITY THE AMOUNT, IF ANY, EQUAL TO THE PRODUCT OF THE INCREMENTAL TAXABLE VALUE OF THE URBAN RENEWAL AREA TIMES THE REDUCED SCHOOL LEVY FOR THE AREA, EACH CALCULATED FOR THE FISCAL YEAR. THE REDUCED SCHOOL LEVY FOR A FISCAL YEAR IS THE DIFFERENCE BETWEEN THE AGGREGATE AMOUNT OF ALL PROPERTY TAX LEVIES FOR SCHOOL PURPOSES IN THE URBAN RENEWAL AREA, EXPRESSED IN MILLS, IN THE FISCAL YEAR ENDED JUNE 30, 1989, AND THE AGGREGATE AMOUNT OF ALL PROPERTY TAX LEVIES FOR SCHOOL PURPOSES IN THE AREA OR THE DISTRICT, EXPRESSED IN MILLS, IN THE FISCAL YEAR, INCLUDING THE STATE EQUALIZATION

AID LEVY. THE STATE TREASURER SHALL DISTRIBUTE THE AMOUNTS TO MUNICIPALITIES IN TWO EQUAL INSTALLMENTS ON DECEMBER 31 AND JUNE 30 OF THE FISCAL YEAR."

~~Section-31.--Section-20-9-361,-MCA,-is-amended-to-read:~~

~~"20-9-361.--State--and--county--equalization--revenue---statutory-appropriation.--Revenue--received--in--support--of state--and--county--equalization--under--the--provisions--of 20-9-331,----20-9-333,----and----20-9-343---is---statutorily appropriated,-as-provided-in-17-7-502,-to:~~

~~(1)--the-superintendent-of-public-instruction-to-be-used for-county-equalization-and-state-equalization-aid--for--the public--schools,--as--provided-by-law,-and-must-be-accounted for--in--accordance--with--generally---accepted---accounting principles,-and~~

~~(2)--counties-as-provided-in-20-9-360(2).~~"

Section 31. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County mill value per elementary ANB" or "county mill value per high school ANB" means the sum of the current taxable valuation of all property in the county plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy

revenue for the support of ~~schools~~ the elementary school and high school district retirement funds, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for ~~schools~~ the county retirement fund is the amount of nonlevy revenue ~~received--by--a--district~~ deposited in the elementary school or high school district retirement fund in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the ~~district~~ county in the previous year in support of the elementary school and high school district retirement funds, multiplied by 1,000.

(2) "District mill value per ANB" means the current taxable valuation of all property in the district plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of ~~schools~~ the school district's

general fund, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program schedule amount. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of nonlevy revenue ~~received--by~~ deposited in a ~~district~~ district's general fund in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year in support of the district's general fund, multiplied by 1,000.

(3) "~~Guaranteed--overschedule---general---fund---budget~~ Permissive amount" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding ~~135%~~ 35% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide district mill value per elementary ANB" or "statewide district mill value per high school ANB" means the sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds

determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of ~~schools~~ the general funds of all school districts, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of nonlevy revenue ~~received by a district~~ deposited to the general fund of a school district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year in support of the district general fund, multiplied by 1,000.

(5) "Statewide county mill value per elementary ANB" or "statewide county mill value per high school ANB" means the sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after

March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of the elementary school or high school district retirement fund, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for the county retirement fund is the amount of nonlevy revenue deposited in the elementary school or high school district retirement fund the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the county in the previous year in support of the elementary school and high school retirement funds, multiplied by 1,000."

Section 32. Section 20-9-367, MCA, is amended to read:

"**20-9-367. Eligibility to receive guaranteed tax base aid.** (1) If the district mill value per ANB of any elementary or high school district is less than the corresponding statewide district mill value per elementary

ANB or high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of its ~~guaranteed---overschedule~~ permissive amount of the general fund budget.

(2) If the county mill value per elementary ANB or high school ANB is less than the corresponding statewide county mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county."

Section 33. Section 20-9-368, MCA, is amended to read:

"**20-9-368. Amount of guaranteed tax base aid -- reversion.** (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide county mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets of the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB

and the statewide county mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets of the high school districts in the county.

(3) The amount of guaranteed tax base aid per ANB that a district may receive in support of its **guaranteed overschedule** permissive amount of the general fund budget is the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's ~~guaranteed overschedule~~ permissive amount of the general fund budget.

(4) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

Section 34. Section 20-9-406, MCA, is amended to read:

"**20-9-406. Limitations on amount of bond issue.** (1) The maximum amount for which each school district may become

indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of **such** the indebtedness, including:

(a) the taxable value of coal gross proceeds as determined for county bonding purposes in 15-23-703(2);

(b) the taxable value of oil and gas net proceeds as determined for county bonding purposes in 15-23-607(3); and

(c) the amount of the value of any other oil and gas production occurring after December 31, 1988, multiplied by 60%.

(2) The 45% maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of **such** the amount ~~shall--be--null--and~~ are void, except as provided in this section.

~~(2)~~(3) When the total indebtedness of a school district has reached the 45% limitation prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in

accordance with the financial administration provisions of this chapter.

~~(3)~~(4) Whenever bonds are issued for the purpose of refunding bonds, any **moneys** money to the credit of the debt service fund for the payment of the bonds to be refunded **are** is applied towards the payment of **such** the bonds and the refunding bond issue is decreased accordingly."

Section 35. Section 20-9-435, MCA, is amended to read:

"20-9-435. Delivery of school district bonds and disposition of sale moneys. (1) After the school district bonds have been registered, the county treasurer shall:

(a) when the board of investments has purchased **such** the bonds, forward the bonds to **such** the state board which, in turn, shall **cause** send the bonds ~~to-be-sent~~ to the state treasurer and shall cause the bonds to be paid for in the manner provided by law; or

(b) **when** if the purchaser is anybody other than the board of investments, deliver the bonds to **such** the purchaser when full payment of the bonds has been made by the purchaser.

(2) If any of the trustees fails or refuses to pay into the proper county treasury the money arising from the sale of ~~any--bonds~~ a bond, he is guilty of a felony and shall be punished by imprisonment in the state prison for not less than 1 year or more than 10 years~~,~~ or by a fine of not more

than $50,000, or by both ~~such fine and imprisonment~~.

(3) All money realized from the sale of school district bonds ~~shall~~ must be paid to the county treasurer, and he shall credit ~~such~~ the money to the building fund of the school district issuing the bonds, except money realized for accrued interest or the purposes defined in 20-9-403(1)(c) and (1)(d) ~~shall~~ must be deposited in the debt service fund ~~for the purchase of such bonds~~. The money realized from the sale of school district bonds ~~shall~~ must be immediately available to ~~such~~ the school district, and the trustees may expend ~~such~~ the money without budgeted authorization only for the purposes for which the bonds were authorized by the school district bond election. Under the provisions of 7-6-2802, the trustees may invest the money for which there is no immediate demand and the interest earned by ~~such~~ investment ~~shall~~ must be used in the manner provided ~~therein~~ in 7-6-2802. After the full accomplishment of the purpose or purposes of a bond issue, the excess money realized from ~~such~~ the bond issue ~~shall~~ must be transferred to the debt service fund of the school district to be used for the redemption or purchase of bonds of ~~such~~ the issue."

Section 36. Section 20-9-438, MCA, is amended to read:

"20-9-438. Preparation of debt service fund budget -- ~~cash~~ operating reserve. (1) The trustees of each school district having outstanding bonds shall include in the debt

service fund of the preliminary budget adopted in accordance with 20-9-113 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of ~~such~~ the bonds and the redemption plans of the trustees.

(2) The trustees shall also include in the debt service fund of the preliminary budget:

(a) the amount of money necessary to pay the special improvement district assessments levied against the school district ~~which~~ that become due during the ensuing school fiscal year; and

(b) a limited ~~cash~~ operating reserve for the school fiscal year following the ensuing school fiscal year as provided in subsection (3).

(3) At the end of each school fiscal year, the trustees of a school district may designate a portion of the end-of-the-year ~~cash~~ fund balance of the debt service fund to be earmarked as a limited ~~cash~~ operating reserve for the purpose of paying, whenever a cash flow shortage occurs, debt service fund warrants and bond obligations ~~which~~ that must be paid from July 1 through November 30 of the school fiscal year following the ensuing school fiscal year. Any portion of the debt service fund end-of-the-year ~~cash~~ fund balance not earmarked for limited ~~cash~~ operating reserve

purposes must be reappropriated to be used for property tax reduction as provided in 20-9-439.

(4) The county superintendent shall compare the preliminary budgeted amount for the debt service fund with the bond retirement and interest requirement and the special improvement district assessments for the school fiscal year just beginning as reported by the county treasurer in his statement supplied under the provisions of 20-9-121. If the county superintendent finds that the requirement stated by the county treasurer is more than the preliminary budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the preliminary budget. The amount confirmed or revised by the county superintendent **shall be** is the final budget expenditure amount for the debt service fund of **such** the school district."

Section 37. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement -- procedure when levy inadequate. (1) The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) determine the total **moneys** money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year **cash** fund balance~~, less--any outstanding--warrants~~ in the debt service fund **and**, less any limited **cash** operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other **moneys** money anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income;

(b) the total amount available to reduce the property tax, determined in subsection (1)(a), **shall** must be subtracted from the final budget expenditure amount for the debt service fund as established in 20-9-438;

(c) the net debt service fund levy requirement determined in subsection (1)(b) **shall** must be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy **shall** must be made by the county commissioners in accordance with 20-9-142.

(2) If the board of county commissioners **shall fail** fails in any school fiscal year to make a levy for any issue or series of bonds of **any** a school district sufficient to

raise the ~~moneys~~ money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in ~~such~~ any amounts ~~as--are~~ established under the provisions of this section, the holder of any bond of ~~such~~ the issue or series or any taxpayer of the district may apply to the district court of the county in which ~~such~~ the school district is located for a writ of mandate to compel the board of county commissioners of ~~such~~ the county to make a sufficient levy for such purposes. If, upon the hearing of ~~such~~ the application, it ~~shall--appear~~ appears to the satisfaction of the court that the board of county commissioners of ~~such~~ the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of ~~such~~ the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in ~~such~~ the school district that is sufficient to raise the amount of ~~such~~ the deficiency. ~~Such~~ The levy ~~shall~~ be is in addition to any levy required to be made at that time for the ~~then-ensuing~~ ensuing school fiscal year. Any costs ~~which~~ that may be allowed or awarded the petitioner in ~~any-such~~ the proceeding ~~shall~~ must be paid by the members of

the board of county commissioners and ~~shall~~ may not be a charge against the school district or the county."

Section 38. Section 20-9-471, MCA, is amended to read:

"20-9-471. Issuance of ~~short-term~~ obligations -- authorization -- conditions. (1) The trustees of a school district may, without a vote of the electors of the district, issue and sell to the board of investments ~~short-term~~ obligations for the purpose of financing all or a portion of:

(a) the costs of vehicles and equipment;

(b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited to roof repairs, heating, plumbing, and electrical systems;

(c) any other capital expenditure the district is otherwise authorized to make, subject to subsection (4); and

(d) the costs associated with the issuance and sale of the ~~short-term~~ obligations.

(2) The term of the ~~short-term~~ obligation may not exceed 5 full fiscal years.

(3) At the time of issuing the obligation, there must exist an amount in the budget for the current fiscal year available and sufficient to make the debt service payment on the obligation coming due in the current year. The budget for each following year in which any portion of the

principal of and interest on the obligation is due must provide for payment of ~~such~~ that principal and interest.

(4) The proceeds of the ~~short-term~~ obligation may not be used to acquire real property or construct a facility.

(5) An obligation issued is payable from any legally available fund of the district and constitutes a general obligation of the district.

(6) The obligation may bear interest at a fixed or variable rate and may be sold to the board of investments at par, at a discount, or with a premium, and upon any other terms and conditions that the trustees determine to be in the best interests of the district.

(7) The principal amount of the ~~short-term~~ obligation, when added to the outstanding bonded indebtedness of the district, may not exceed the debt limitation established in 20-9-406."

Section 39. Section 20-9-501, MCA, is amended to read:

"20-9-501. **Retirement fund.** (1) The trustees of ~~any~~ a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to ~~such~~ the systems. The district's

contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-801. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of ~~any~~ a district required to make a contribution to ~~any~~ a system referred to in subsection (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to ~~such~~ the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the

retirement fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

~~(ii) anticipated guaranteed tax base aid in support of retirement;~~

~~(iii)~~ net proceeds taxes and local government severance taxes on any other oil and gas production occurring after December 31, 1988;

~~(iv)~~(iii) coal gross proceeds taxes under 15-23-703; ~~and~~

~~(v)~~(iv) any ~~cash~~ fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year ~~cash~~ fund balance earmarked as the retirement fund ~~cash~~ operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year ~~cash~~ fund balance in the retirement fund. The retirement fund ~~cash~~ operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget; and

(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (8),

subtracting the money available for reduction of the levy requirement, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the second Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.

(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the ~~budget for the special education cooperative agreement of the district bears to the total budget of the cooperative~~ special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and THE COUNTY COMMISSIONERS SHALL fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

~~(8) (a) For a county that is eligible for guaranteed tax base aid under the provisions of 20-9-367, the county superintendent shall provide the board of county commissioners with the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction, to fund the retirement fund net levy requirement;~~

~~(b)~~ The county ~~commissioners~~ SUPERINTENDENT shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:

~~(i)~~(A) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

~~(ii)~~(B) the taxable valuation of the district divided by 1,000."

Section 40. Section 20-9-504, MCA, is amended to read:

"20-9-504. Extracurricular fund for pupil functions. (1) The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All extracurricular moneys of ~~any~~ a pupil organization of the school ~~shall~~ must be deposited and expended by check from a bank account maintained for the extracurricular fund.

(2) An accounting system for the extracurricular fund recommended by the ~~department of commerce shall~~ superintendent of public instruction must be implemented by the trustees. ~~Such~~ The accounting system ~~shall~~ must provide for:

(a) the internal control of the cash receipts and expenditures of the money; and

(b) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled

with the detailed accounts within the extracurricular fund maintained for each student function."

Section 41. Section 20-9-505, MCA, is amended to read:

"**20-9-505. Purpose and establishment of nonoperating fund.** (1) The trustees of ~~any~~ a district that will not operate ~~any~~ a school during the ensuing school fiscal year shall establish a nonoperating fund on the first day of ~~such~~ the school fiscal year. In establishing the nonoperating fund, the trustees shall cause the transfer of the end-of-the-year ~~cash~~ fund balance of each fund maintained by the district during the immediately preceding school fiscal year to the nonoperating fund. However, ~~cash~~ fund balances of the debt service fund and the miscellaneous ~~federal~~ programs fund, if any, ~~shall~~ must be maintained in their individual funds.

(2) The trustees of a district establishing a nonoperating fund for the first year of nonoperation may earmark a portion of the nonoperating fund ~~cash~~ balance as a nonoperating fund ~~cash~~ operating reserve when they anticipate the reopening of a school in the following school fiscal year. ~~Such cash~~ The operating reserve ~~shall~~ may not be more than the general fund ~~cash~~ operating reserve designated for the immediately preceding school fiscal year. If a school is not operated in the following school fiscal year, the authority of the trustees to earmark a

nonoperating fund ~~cash~~ operating reserve ~~shall terminate~~ terminates and the ~~moneys~~ money earmarked as ~~a cash~~ an operating reserve ~~shall~~ must be used to reduce the levy requirement of the nonoperating fund. If the trustees acquire approval to reopen a school in the following school fiscal year under the provisions of 20-6-502 or 20-6-503 and operate ~~such~~ the school, the nonoperating fund ~~cash~~ operating reserve ~~shall~~ must be restored as the general fund ~~cash~~ operating reserve.

(3) The purpose of the nonoperating fund ~~shall be~~ is to centralize the financing and budgeting for the limited functions of a district not operating a school. ~~Such~~ The functions ~~shall~~ include:

(a) elementary tuition obligations to other districts;

(b) transportation of the resident pupils;

(c) maintenance of district-owned property; and

(d) any other nonoperating school function of the district ~~deemed~~ considered necessary by the trustees or required by law.

(4) Any expenditure of nonoperating fund ~~moneys shall~~ money must be made in accordance with the financial administration provisions of this title for a budgeted fund."

Section 42. Section 20-9-507, MCA, is amended to read:

"**20-9-507. Miscellaneous programs fund.** (1) The

trustees of ~~any~~ a district receiving ~~grants of~~ money from local, state, ~~or~~ federal ~~moneys~~, or other ~~district~~ sources PROVIDED IN 20-5-307(4), 20-5-312(8), AND 20-9-321(3) other than ~~moneys~~ money under the provisions of Title I of Public Law 81-874 or federal ~~moneys~~ money designated for deposit in a specific fund of the district shall establish a miscellaneous programs fund for the deposit of ~~such--moneys~~ the money. ~~Such moneys~~ The money may be a reimbursement of MISCELLANEOUS PROGRAM FUND expenditures already realized by the district or may be a grant of ~~moneys~~ money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the ~~moneys--are~~ money is a reimbursement, the ~~moneys shall~~ money may be expended at the discretion of the trustees for school purposes. When the ~~moneys are~~ money is a grant, the ~~moneys shall~~ money must be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall cause a separate accounting to be maintained for each federal grant program and for the aggregate of all reimbursement ~~moneys~~ money.

(2) The financial administration of the miscellaneous programs fund ~~shall~~ must be in accordance with the financial administration provisions of this title for a nonbudgeted

fund ~~which shall be applied by individual grant programs--or for--the aggregate amount of the reimbursement moneys rather than on the basis of the total fund.~~"

Section 43. Section 20-10-101, MCA, is amended to read:

"**20-10-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Transportation" ~~shall mean~~ means:

(a) a district's conveyance of a pupil by a school bus between his legal residence and the school designated by the trustees for his attendance; or

(b) ~~a district's conveyance of a pupil by a school bus between his regular school of attendance and the vocational-technical secondary schools designated by the trustees for his attendance if the secondary school is located in some other school district; or~~

~~(c)~~ "individual transportation" whereby a district is relieved of actually conveying a pupil. ~~Such individual~~ Individual transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised home study.

(2) An "eligible transportee" ~~shall mean~~ means a public school pupil who:

(a) is ~~not less than~~ 5 years of age ~~nor~~ or older and

has not attained his 21st birthday or who is a handicapped preschool child between the ages of 3 and 6;

(b) is a resident of the state of Montana;

(c) regardless of district and county boundaries, resides at least 3 miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; and

(d) is ~~deemed--by--law~~ considered to reside with his parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

(3) (a) A "school bus" means, except as provided in subsection (3)(b), any motor vehicle that:

(i) complies with the bus standards established by the board of public education as verified by the Montana department of justice's semiannual inspection of school buses and the superintendent of public instruction; and

(ii) is owned by a district or other public agency and operated for the transportation of pupils to or from school or owned by a carrier under contract with a district or public agency to provide transportation of pupils to or from school.

(b) A school bus does not include a vehicle that is:

(i) privately owned and not operated for compensation

under this title;

(ii) privately owned and operated for reimbursement under 20-10-142;

(iii) either district-owned or privately owned, designed to carry not more than nine passengers, and used to transport pupils to or from activity events or to transport pupils to their homes in case of illness or other emergency situations; or

(iv) an over-the-road passenger coach used only to transport pupils to activity events."

Section 44. Section 20-10-143, MCA, is amended to read:

"20-10-143. Budgeting for transportation and transmittal of transportation contracts. (1) The trustees of ~~any~~ a district furnishing transportation to pupils who are residents of ~~such~~ the district ~~shall~~ have the authority and it ~~shall--be~~ is their duty to provide a transportation fund budget that is adequate to finance ~~such~~ the district's transportation contractual obligations and any other transportation expenditures necessary for the conduct of its transportation program. The transportation fund budget ~~shall~~ must include:

(a) an adequate amount to finance the maintenance and operation of district owned and operated school buses;

(b) the annual contracted amount for the maintenance and operation of school buses by a private party;

(c) the annual contracted amount for individual transportation, including any increased amount ~~due--to~~ because of isolation, which ~~shall~~ may not exceed the schedule amounts prescribed in 20-10-142;

(d) any amount necessary for the purchase, rental, or insurance of school buses; and

(e) any other amount necessary to finance the administration, operation, or maintenance of the transportation program of the district, as determined by the trustees.

(2) The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill any obligation to provide transportation in accordance with the transportation law for any pupils not residing in the district at the time of the adoption of the preliminary budget and who subsequently became residents of ~~such~~ the district during the school fiscal year or pupils who have become eligible transportees since the adoption of the preliminary budget because their legal residence has been changed. The budgeted contingency amount ~~shall~~ may not exceed 10% of the transportation schedule amount as calculated under the provisions of 20-10-141 and 20-10-142 for all transportation services authorized by ~~such~~ the schedule and provided by the district unless 10% of ~~such~~ the transportation schedule amount ~~shall~~

~~be~~ is less than $100, in which case $100 ~~shall be~~ is the maximum limitation for ~~such~~ the budgeted contingency amount.

(3) As provided in 20-9-162, an ~~emergency~~ amendment to the transportation fund budget may be adopted subject to the provisions of the ~~emergency-budgeting~~ budget amendment law.

(4) The transportation fund budgeted expenditures appropriated by the trustees ~~shall~~ must be reported on the regular budget form prescribed by the superintendent of public instruction in accordance with 20-9-103, and the adoption of the transportation fund budget ~~shall~~ must be completed in accordance with the school budgeting laws. When the adopted preliminary budget is sent to the county superintendent, the trustees shall also send copies of all completed transportation contracts for school bus transportation and individual transportation to the county superintendent. ~~Such~~ The contracts ~~shall~~ must substantiate all contracted transportation services incorporated in the preliminary budget, and after the county superintendent has utilized the contracts for ~~such~~ that purpose but before the fourth Monday of July, he shall send all ~~the~~ transportation contracts received by him to the superintendent of public instruction. When the county superintendent determines a deviation between the preliminary transportation fund budget amount for contracted transportation services and the contracted amount for ~~such~~ the services, he shall

immediately call the deviation to the attention of the appropriate trustees and shall allow the trustees to change the preliminary budgeted amount to compensate for ~~such~~ the deviation."

Section 45. Section 20-10-144, MCA, is amended to read:

"**20-10-144. Computation of revenues and net tax levy requirements for the transportation fund budget.** Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem

reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or $100, whichever is larger, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 3 and the resulting one-third amount is used to determine the available state and county revenue to be budgeted on the following basis:

(a) the resulting one-third amount is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be two-thirds of the schedule amount attributed to the transportation of special education pupils;

(b) the resulting one-third amount, except as provided for joint elementary districts in subsection (2)(e), is the budgeted county transportation reimbursement for elementary districts and must be financed by the basic county tax under the provisions of 20-9-334;

(c) the resulting one-third amount multiplied by 2 is the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5), except as provided for joint high school districts in subsection (2)(e), and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be one-third of the schedule amount attributed to the transportation of special education pupils;

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(b) or (2)(c) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a); and

(e) the county revenue requirement for a joint district, after the application of any district money under

subsection (2)(d), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act; plus

(b) anticipated payments from other districts for providing school bus transportation services for the district; plus

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child; plus

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4); plus

(e) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus

(f) gross proceeds taxes from coal under 15-23-703; plus

(g) net proceeds taxes for interim production and new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; plus

(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year ~~which~~ that may be used to finance the transportation fund; plus

(i) any ~~cash~~ fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year ~~cash~~ fund balance earmarked as the transportation fund ~~cash~~ operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year ~~cash~~ fund balance in the transportation fund. The ~~cash~~ operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount and, for an elementary district, adding the difference to the district obligation to finance one-third of the schedule amount as determined in subsection (2); and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts is computed by adding all requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and the levies must be made by the county commissioners in accordance with 20-9-142."

Section 46. Section 20-10-145, MCA, is amended to read:

"20-10-145. State transportation reimbursement. (1) ~~Any~~ A district providing school bus transportation or individual transportation in accordance with the transportation law, board of public education transportation policy, and superintendent of public instruction transportation rules ~~shall~~ must receive a state reimbursement of its

transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement ~~shall~~ may not exceed one-third of the reimbursement amounts established in ~~such~~ ~~sections~~ 20-10-141 and 20-10-142 or one-third of the district's transportation fund budget, whichever is smaller, and ~~shall~~ must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation reimbursement, ~~no~~ an amount claimed by a district ~~shall~~ may not be considered for reimbursement unless ~~such~~ the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

(2) Requests for the state transportation reimbursement ~~shall~~ must be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements ~~shall~~ must be routed by the district to the county superintendent, who after reviewing ~~such~~ the claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining their compliance with the transportation law,

board of public education transportation policy, and the transportation rules of the superintendent of public instruction. After making any necessary adjustments to ~~such~~ the claims, ~~he shall cause their payment by ordering~~ the superintendent of public instruction shall order a disbursement from the state ~~moneys~~ money appropriated by the legislature of the state of Montana for the state transportation reimbursement. ~~Such~~ The payment of all the district's claims within one county ~~shall~~ must be made to the county treasurer of ~~such~~ the county, and the county superintendent shall apportion ~~such~~ the payment in accordance with the apportionment order supplied by the superintendent of public instruction."

SECTION 47. SECTION 15-1-501, MCA, IS AMENDED TO READ:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone company license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:

(a) ~~57%--in--fiscal--year--1990--and-50%-in-fiscal-year 1991,~~ 59.5% to the credit of the state general fund;

(b) ~~9.8%-in-fiscal-year-1990-and~~ 8.7% ~~in--fiscal--year 1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~33.2%-in-fiscal-year-1990-and-41.3%-in-fiscal--year 1991,~~ 31.8% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

(a) ~~64%--in--fiscal--year--1990--and~~ 61% ~~in-fiscal-year 1991,~~ to the credit of the state general fund;

(b) ~~11%-in-fiscal-year-1990-and~~ 10.5% ~~in--fiscal--year~~

~~1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~25%-in-fiscal-year-1990-and~~ 28.5% ~~in--fiscal--year 1991,~~ to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(4) The state treasurer shall also deposit to the credit of the state general fund all money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund."

Section 48. Section 15-24-1402, MCA, is amended to read:

"**15-24-1402. New or expanding industry -- assessment.** (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, ~~shall~~ must be taxed at 50% of their taxable value. Each year thereafter, the percentage ~~shall~~ must be increased by equal percentages until the full taxable value is attained in the 10th year.

In subsequent years, the property ~~shall~~ must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) ~~shall~~ must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must shall apply to the county assessor on a form provided by the department of revenue for

the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, 20-9-360, or otherwise required under state law."

Section 49. Section 20-15-404, MCA, is amended to read:

"20-15-404. Trustees to adhere to certain other laws. Unless the context clearly indicates otherwise, the trustees of a community college district shall adhere to:

(1) ~~adhere to~~ the teachers' retirement provisions of Title 19, chapter 4~~, as amended~~;

(2) ~~adhere to~~ the provisions of 20-1-201, 20-1-205,

20-1-211, and 20-1-212~~,~~ ~~as amended~~;

(3) ~~adhere to~~ the school property provisions of 20-6-604, 20-6-605, 20-6-621, 20-6-622, 20-6-624, 20-6-631, and 20-6-633 through 20-6-636~~,~~ ~~as amended~~;

(4) ~~adhere to~~ the adult education provisions of 20-7-701 through 20-7-713~~,~~ ~~as amended~~;

(5) ~~adhere to~~ the administration of finances provisions of 20-9-115, 20-9-134, ~~subsections (2), (3), (4), and (5) of 20-9-161, 20-9-163, 20-9-165,~~ 20-9-207, 20-9-208, 20-9-210, 20-9-215, 20-9-221 through 20-9-224, and 20-9-512~~,~~ ~~as amended~~;

(6) ~~adhere to~~ the school bond provisions of 20-9-401 through 20-9-412, 20-9-421 through 20-9-446, 20-9-451 through 20-9-456, and 20-9-461 through 20-9-465~~,~~ ~~as amended~~;

(7) ~~adhere to~~ the special purpose funds provisions of 20-9-502, 20-9-503, 20-9-507, 20-9-508, and 20-9-511~~,~~ ~~as amended~~;

(8) ~~adhere to~~ the educational cooperative agreements provisions of 20-9-701 through 20-9-704~~,~~ ~~as amended~~;

(9) ~~adhere to~~ the school elections provisions of Title 20, chapter 20~~,~~ ~~as amended~~;

(10) ~~adhere to~~ the students' rights provisions of 20-25-511 through 20-25-516~~,~~ ~~as amended~~; and

(11) ~~adhere to~~ the health provisions of 50-1-206."

NEW SECTION. **Section 50.** Approval to amend general

fund budget for ensuing school fiscal year. (1) The trustees of a district may determine that expenses from the following sources will need to be funded by the general fund budget in the ensuing school fiscal year:

(a) a budget amendment authorized under the provisions of 20-9-161 through 20-9-163;

(b) metal mines tax reserve fund authorized in 20-9-231;

(c) special education expenditures approved under the provisions of 20-9-321(3);

(d) transfer of services from or dissolution of a special education cooperative; and

(e) tuition receipts deposited in the miscellaneous programs fund.

(2) Whenever the trustees determine that expenses from the sources in subsection (1) will need to be funded by the general fund in the ensuing year, the trustees shall petition the superintendent of public instruction for approval to add the expenditures from any of the sources to the current year's general fund budget for the purposes of calculating the ensuing year's general fund budget limitation. The petition must set forth in writing the specific reasons for the request and a report of the actual expenditures.

(3) The superintendent of public instruction shall

promptly approve or disapprove the petition for approval to add the expenditures from the sources in subsection (1) to the current year's general fund budget for the purposes of calculating the ensuing year's general fund budget.

NEW SECTION. **Section 51. Definition of emergency for budgeting purposes.** As used in this chapter, unless the context clearly indicates otherwise, the term "emergency" for the purpose of community college budgeting means:

(1) the destruction or impairment of any community college district property necessary to the maintenance of the district, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering the property unfit for its present use;

(2) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(3) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district; or

(4) any other reason of similar consequence that has been approved by the board of regents upon petition by the trustees of the district.

NEW SECTION. **Section 52. Resolution for emergency budget -- petition to the board of regents.** (1) Whenever the trustees of a community college district decide that an

emergency exists, they may adopt a resolution proclaiming the emergency by a unanimous vote of all members present at any meeting for which each trustee has been given reasonable notice of the time and place of holding the meeting. The emergency resolution must also state the facts constituting the emergency, the estimated amount of money required to meet the emergency, the funds affected by the emergency, and the time and place the board will meet for the purpose of considering and adopting an emergency budget for the funds for the current school fiscal year.

(2) If the trustees decide that an emergency exists for any reason other than the conditions specified in 20-9-161 (1) through (3), they shall petition the board of regents for permission to adopt a resolution of emergency. The petition must set forth in writing the reasons for the request, the district funds affected by the emergency, the estimated amount of money required to meet the emergency for each affected fund, the anticipated sources of financing for the emergency expenditures, and any other information required by the board of regents. The petition must be signed by each trustee.

(3) The board of regents shall promptly approve or disapprove the petition requesting approval to adopt a resolution of emergency. If the petition is approved, the trustees may adopt a resolution of emergency and take all

other steps required for the adoption of an emergency budget. Approval of a petition by the board of regents authorizes the board of trustees to initiate emergency budget proceedings by resolution and does not relieve the trustees of the necessity of complying with the requirements of the emergency budgeting laws.

NEW SECTION. **Section 53. Emergency budget limitation, preparation, and adoption procedures.** (1) The meeting of the trustees of a community college district to consider and adopt an emergency budget must be open to the public, and any taxpayer in the district has the right to appear and be heard. If at the meeting a majority of the trustees present find that an emergency exists, the trustees may make and adopt a preliminary emergency budget, on the regular budget form, setting forth fully the facts constituting the emergency. In adopting the preliminary emergency budget, the trustees may budget for any fund that was included on the final budget of the district for the current fiscal year. The budget must be itemized to show the amount appropriated for each item as required on the budget form.

(2) When the emergency is the result of increased enrollment, the maximum amount of the emergency budget for all funds must be determined by budget amendment.

(3) If another type of emergency occurs, the budget must be limited to the expenditures considered by the

trustees to be reasonable and necessary to finance the conditions of the emergency and the preliminary emergency budget must include the details of the proposed expenditures.

(4) After a majority of the trustees have voted to adopt the emergency budget, it must be signed by the chairman of the trustees and the clerk of the district and copies must be sent to the county superintendent, the county treasurer, and the board of regents.

NEW SECTION. **Section 54. Determination of available financing -- fixing and levying property taxation for an emergency budget.** (1) After the last day of the fiscal year for which an emergency budget has been adopted, the county treasurer shall determine the amount of the cash balance that is available to finance the emergency budget's outstanding warrants or registered warrants for each fund included on the emergency budget. The available amount of the cash balance of each fund must be determined by deducting from the county treasurer's year-end cash balance for the fund the outstanding warrants or registered warrants issued under the regularly adopted final budget for the fund and the cash reserve for the fund that the trustees have established, within the limitations of law, for the following fiscal year.

(2) The county treasurer shall prepare and deliver a

statement on the financial status of each fund included on an emergency budget for a district that had an emergency budget during the preceding year to the board of county commissioners by the first Monday in August. The statement for each district emergency budget must include:

(a) the total amount of emergency warrants that are outstanding or registered against each fund of the district;

(b) the amount of the cash balance in each fund included on the emergency budget that is available to finance the outstanding warrants or registered warrants; and

(c) after consideration of the available money in subsection (2)(b), the additional amount of money that is required to finance the outstanding warrants or registered warrants and interest on the warrants and that must be raised by a tax levy.

(3) For each fund of the emergency budget of each district requiring a tax levy as established by subsection (2)(c), the board of county commissioners shall, at the time all other district and county taxes are fixed and levied, levy a tax on the taxable property of each applicable district that will raise sufficient financing to pay the amount established by the county treasurer.

NEW SECTION. **Section 55.** **Repealer.** Sections 15-10-103, 20-9-111, and 20-9-167, MCA, are repealed.

NEW SECTION. **Section 56.** **Codification instruction.** (1) [Section 50] is intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to [section 50].

(2) [Sections 51 through 54] are intended to be codified as an integral part of Title 20, chapter 15, and the provisions of Title 20, chapter 15, apply to [sections 51 through 54].

NEW SECTION. **SECTION 57.** COORDINATION INSTRUCTION. IF HOUSE BILL NO. 580 IS PASSED AND APPROVED AND IF IT CONTAINS A SECTION AMENDING 20-9-366, THEN THE AMENDMENTS TO 20-9-366 IN [THIS ACT] ARE VOID.

NEW SECTION. **Section 58.** **Retroactive applicability.** [Sections 1 through 46 AND 48 THROUGH 50] apply retroactively, within the meaning of 1-2-109, to the school fiscal year beginning July 1, 1990.

NEW SECTION. **Section 59.** **Effective date.** (1) [Sections 1 through ~~50~~ 46, 48 THROUGH ~~57~~ 58, and this section] are effective on passage and approval.

(2) ~~[Sections--51--through--54]--are~~ [SECTION 47] IS effective July 1, 1991.

-End-

Free Conference Committee
on Senate Bill No. 17
Report No. 1, April 25, 1991

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 17, met and considered Senate Bill No. 17 (reference copy - salmon) and we recommend that Senate Bill No. 17 (reference copy - salmon) be amended as follows:

1. Page 103, line 23.
Following: line 22
Insert: "Section 55. Section 15-1-501, MCA, is amended to read:
"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received by him from the collection of:
(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;
(b) electrical energy producer's license taxes under chapter 51;
(c) severance taxes allocated to the general fund under chapter 36;
(d) liquor license taxes under Title 16;
(e) telephone company license taxes under chapter 53; and
(f) inheritance and estate taxes under Title 72, chapter 16.
(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:
(a) ~~57% in fiscal year 1990 and 50% in fiscal year 1991,~~ 62.8% to the credit of the state general fund;
(b) ~~9.0% in fiscal year 1990 and~~ 8.7% ~~in fiscal year 1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and
(c) ~~33.2% in fiscal year 1990 and 41.3% in fiscal year 1991,~~ 28.5% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.
(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:
(a) ~~64% in fiscal year 1990 and~~ 61% ~~in fiscal year 1991,~~ to the credit of the state general fund;
(b) ~~11% in fiscal year 1990 and~~ 10.5% ~~in fiscal year 1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and
(c) ~~25% in fiscal year 1990 and~~ 28.5% ~~in fiscal year 1991,~~ to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

ADOPT

REJECT

890925CC.Sji

(4) The state treasurer shall also deposit to the credit of the state general fund all money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.
(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund.""
Renumber: subsequent sections

2. Page 104, line 17.
Strike: "58"
Insert: "54, 56 through 59"

3. Page 104, line 20.
Strike: "1991"
Insert: "1993"

4. Page 104.
Following: line 20
Insert: "(3) [Section 55] is effective July 1, 1991"

And that this Free Conference Committee report be adopted.

For the Senate:

Chair, Sen. Blaylock

Sen. Towe

Sen. Brown

Amd. Coord. 4-25-91

Sec. of Senate 4/25

For the House:

Chair, Rep. Peck

Rep. Darko

Rep. Grinde

FCCR #1
SB 17
890925CC.Sji

AN ACT TO GENERALLY REVISE SCHOOL LAW IN COMPLIANCE WITH NEW SCHOOL FUNDING PROVISIONS AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR SCHOOL DISTRICTS; TO ALLOW A DISTRICT TO AMEND THE ADOPTED GENERAL FUND BUDGET AND TO EXCEED ANY APPLICABLE BUDGET LIMITATION IN CERTAIN CIRCUMSTANCES; TO ALLOW SCHOOL DISTRICTS TO TRANSPORT PRESCHOOL SPECIAL EDUCATION STUDENTS; TO LIMIT STATE TRANSPORTATION REIMBURSEMENT TO 180 PUPIL-INSTRUCTION DAYS; TO ADJUST THE SCHOOL DISTRICT BONDING LIMITATION TO COMPENSATE FOR CHANGES IN DISTRICT TAXABLE VALUATION; TO EXTEND THE ALLOCATION OF PERCENTAGES OF THE INDIVIDUAL INCOME TAX AND THE CORPORATE LICENSE AND INCOME TAX TO THE STATE GENERAL FUND, THE DEBT SERVICE ACCOUNT FOR LONG-RANGE BUILDING PROGRAM BONDS, AND THE STATE EQUALIZATION AID ACCOUNT FOR PUBLIC SCHOOLS; AMENDING SECTIONS 15-1-501, 15-24-1402, 20-3-106, 20-3-205, 20-3-324, 20-5-307, 20-5-312, 20-7-713, 20-9-104, 20-9-141, 20-9-142, 20-9-145, 20-9-161, 20-9-162, 20-9-163, 20-9-164, 20-9-165, 20-9-166, 20-9-201, 20-9-206, 20-9-208, 20-9-209, 20-9-210, 20-9-214, 20-9-221, 20-9-231, 20-9-301, 20-9-315, 20-9-321, 20-9-344, 20-9-353, 20-9-360, 20-9-366, 20-9-367, 20-9-368, 20-9-406, 20-9-435, 20-9-438, 20-9-439, 20-9-471, 20-9-501, 20-9-504, 20-9-505, 20-9-507, 20-10-101, 20-10-143, 20-10-144, 20-10-145, AND 20-15-404, MCA; REPEALING SECTIONS 15-10-103, 20-9-111, AND 20-9-167, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE.

SB 0017

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of the state, and he shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

(5) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of 20-6-311;

(6) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

(7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

(8) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102

and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;

(9) establish a system of communication for calculating joint district revenues in accordance with the provisions of 20-9-151;

(10) approve or disapprove the adoption of a district's ~~emergency~~ budget amendment resolution under the conditions prescribed in 20-9-163 and ~~publish~~ adopt rules for an application for additional state aid for ~~an emergency~~ a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;

(11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

(12) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

(13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

(14) distribute state equalization aid in support of the foundation program and guaranteed tax base aid, in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366 through 20-9-369;

(15) distribute state impact aid in accordance with the provisions of 20-9-304;

(16) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

(17) approve or disapprove an adult education program for which a district proposes to levy a tax in accordance with the provisions of 20-7-705;

(18) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;

(19) authorize the use of federal money for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

(20) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

(21) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of 20-1-303 and 20-1-304;

(22) recommend standards of accreditation for all schools to the board of public education and evaluate compliance with the standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

(23) collect and maintain a file of curriculum guides and

assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

(24) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of 20-7-201;

(25) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

(26) as the governing agent and executive officer of the state of Montana for K-12 vocational education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

(27) supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

(28) administer the traffic education program in accordance with the provisions of 20-7-502;

(29) administer the school food services program in accordance with the provisions of 20-10-201, 20-10-202, and 20-10-203;

(30) review school building plans and specifications in accordance with the provisions of 20-6-622;

(31) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of 20-1-408;

(32) provide schools with information and technical assistance for compliance with the student assessment rules provided for in 20-2-121 and collect and summarize the results of the student

assessment for the board of public education and the legislature;

(33) administer the distribution of guaranteed tax base aid for county retirement levy obligations in accordance with 20-9-366 through 20-9-369; and

(34) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

Section 2. Section 20-3-205, MCA, is amended to read:

"20-3-205. Powers and duties. The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

(1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(2) administer and file the oaths of members of the boards of trustees of the districts in his county in accordance with the provisions of 20-3-307;

(3) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(4) act on each tuition application submitted to him in accordance with the provisions of 20-5-301, 20-5-302, 20-5-304, and 20-5-311 and transmit the tuition information required by

20-5-312;

(5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(7) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of 20-6-103;

(8) fulfill all responsibilities assigned to him under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(9) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(10) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(11) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and ~~emergency--budgets~~ budget amendments, and fulfill ~~such~~ other responsibilities assigned to him under the provisions of this title regulating school budgeting systems;

(13) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of

20-9-211;

(14) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-334, 20-9-347, 20-10-145, or 20-10-146;

(15) act on any request to transfer average number belonging (ANB) in accordance with the provisions of 20-9-313(3);

(16) calculate the estimated budgeted general fund sources of revenue in accordance with the provisions of 20-9-348 and the other general fund revenue provisions of the general fund part of this title;

(17) compute the revenues and the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(18) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(19) for districts ~~which~~ that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or

20-7-602;

(20) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(21) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(22) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction;

(23) administer the oath of office to trustees without the receipt of pay for administering the oath;

(24) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to his successor;

(25) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(a) the total of the cash balances of all funds maintained by

the district at the beginning of the year;

(b) the total receipts that were realized in each fund maintained by the district;

(c) the total expenditures that were made from each fund maintained by the district; and

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(26) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed."

Section 3. Section 20-3-324, MCA, is amended to read:

"**20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and

otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or ~~an emergency~~ a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, foundation program, permissive, additional levy, ~~cash~~ operating reserve, and state impact aid ~~amount~~ amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the

transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund, and interlocal cooperative agreement fund in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, vocational education, and special education parts of this title;

(18) establish and maintain the school food services of the

district in accordance with the provisions of the school food services parts of this title;

(19) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(20) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to his child;

(21) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

(22) procure and display outside daily in suitable weather at each school of the district an American flag that measures not less than 4 feet by 6 feet;

(23) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110; and

(24) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the

superintendent of public instruction."

Section 4. Section 20-5-307, MCA, is amended to read:

"20-5-307. Budgeting, levy requirement, and paying elementary tuition. (1) The tuition amount that has been established in 20-5-305 ~~shall~~ must be paid during the ensuing school fiscal year. The trustees of the elementary district shall include ~~such~~ the amount in the tuition fund of the preliminary budget. If the trustees should fail to include ~~such~~ the amount or any portion of it in the preliminary budget, they shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. ~~Such~~ The adjustment ~~shall--not--be~~ is not subject to the budget adjustment provisions of 20-9-132.

(2) The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the second Monday of August, and a levy on the district ~~shall~~ must be made by the county commissioners in accordance with 20-9-142. ~~Such~~ The levy requirement ~~shall~~ must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the ~~cash~~ fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated ~~moneys~~ money that may be realized in the tuition fund.

(3) The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the

county superintendent's notification provided under the provisions of 20-5-306. At least one-half of the payments must be made in December, and the remaining payments must be made by June 15 of the fiscal year.

(4) Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year must be deposited in a separate account of the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

Section 5. Section 20-5-312, MCA, is amended to read:

"**20-5-312. Reporting, budgeting, and payment for high school tuition.** (1) Except as provided in subsection (2), at the close of the school term of each school fiscal year, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the actual expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (1)(a) above by the ANB of the district as determined under the provisions of 20-9-311; and

(c) subtracting from the amount determined in subsection (1)(b) the per-ANB amount allowed by the foundation program

schedules and the per-ANB amount of guaranteed tax base aid as provided in 20-9-366 through 20-9-369.

(2) The tuition for a full-time high school special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time high school special education pupils as designated in 20-9-311 for funding purposes.

(3) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, have the authority to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(4) When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the superintendent of each district in which the reported pupils reside.

(5) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved

tuition agreements, he shall determine the total amount of tuition due the out-of-district high schools on the basis of the following per-pupil schedule: the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided by each high school district where resident district pupils have attended school.

(6) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a high school outside the county of residence must be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent shall cause the payment by county warrant of at least one-half of the high school tuition obligations established under this section out of the first money realized from the county basic special tax for high schools. The remaining obligations must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer of the county where each high school entitled to tuition is located. ~~The~~ Except as provided in subsection (8), the county treasurer shall credit tuition receipts to the general fund of the applicable high school district, and the tuition receipts must be used in accordance with the provisions of 20-9-141.

(7) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the

sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall report the net tuition fund levy requirement for each high school district to the county commissioners on the second Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the ~~cash~~ fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification. Payments must be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer.

(8) Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year must be deposited in a separate account of the

district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

Section 6. Section 20-7-713, MCA, is amended to read:

"20-7-713. Adult basic education fund cash operating reserve. At the end of each school fiscal year, the trustees of any a school district that operates an adult basic education program may designate what the portion of the adult basic education fund end-of-the-year cash fund balance that is to be earmarked as cash operating reserve for the purpose of paying, whenever a cash flow shortage occurs, adult basic education fund warrants issued by the district from July 1 through June 30 of the ensuing school fiscal year. The amount of the adult basic education fund cash balance that is earmarked as cash operating reserve may not exceed 35% of the final adult basic education fund budget for the ensuing school fiscal year."

Section 7. Section 20-9-104, MCA, is amended to read:

"20-9-104. General fund cash operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year cash fund balance that is to be earmarked as cash operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections ~~(3)~~(5) and ~~(4)~~(6),

the amount of the general fund cash balance that is earmarked as cash operating reserve may not exceed the following percentages of the final general fund budget for the ensuing school fiscal year:

(a) 35% for a district that did not receive state equalization aid during the current school fiscal year;

(b) 30% for a district that received state equalization aid equal to 25% or less of its foundation program schedule entitlement in the current school fiscal year; and

(c) 20% for a district that received state equalization aid equal to more than 25% of its foundation program schedule entitlement in the current school fiscal year.

(2) The amount held as cash operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Any unreserved fund balance that is equal to or less than the prior year's excess reserves as provided in subsection (5) may be used to reduce the permissive levy provided by 20-9-145 or to reduce the voted levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year cash fund balance that is not ~~earmarked for cash reserve purposes~~ reserved under subsection (2) or reappropriated under subsection (3) is cash fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

~~(3)~~(5) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than

one or more of the following:

(a) any amount received ~~during the current school fiscal year~~ under Public Law 81-874;

(b) the unused balance of any amount received:

(i) in settlement of tax payments protested in a prior ~~to July 1, 1990~~ school fiscal year;

(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

(iii) in delinquent taxes from a prior school fiscal year; or

(c) any amount received as a general bonus payment under 20-6-401.

~~(4)~~(6) The limitation of subsection (1) does not apply when the amount earmarked as ~~cash~~ operating reserve is $10,000 or less."

Section 8. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the amount established by the schedules in 20-9-316 through 20-9-321 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303; and

(ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-145 and 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund ~~cash~~ balance reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(vi) anticipated net proceeds taxes for interim production and new production, as defined in 15-23-601;

(vii) anticipated revenue from local government severance taxes as provided in 15-36-112;

(viii) anticipated revenue from coal gross proceeds under 15-23-703;

(ix) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4);

(x) anticipated revenue from corporation license taxes collected from financial institutions under the provisions of 15-31-702; and

(xi) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year ~~which~~ that may be used to finance the general fund, excluding any guaranteed tax base aid.

(c) ~~Subtract~~ Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from ~~the--total--requirement--determined---in subsection--(1)(a);~~ any additional general fund budget amount adopted by the trustees of the district as the permissive amount under the provisions of 20-9-145 to determine the general fund permissive net levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional funding requirement to be met by a district levy as provided in 20-9-303 and 20-9-353 to determine the additional general fund levy requirement.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund permissive net levy requirement by

dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

~~(2)~~(3) The net general fund levy requirement determined in ~~subsection--(1)(c)~~ subsections (1)(c) and (1)(d) must be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund permissive net levy requirement and the additional general fund levy requirement for the district, and a levy must be ~~made~~ set by the county commissioners in accordance with 20-9-142."

Section 9. Section 20-9-142, MCA, is amended to read:

"20-9-142. Fixing and levying taxes by board of county commissioners. On the second Monday in August, the county superintendent shall place before the board of county commissioners the final adopted budget of the district ~~and-any emergency-budget-adopted--by--the--district--during--the--previous school-fiscal-year~~. It ~~shall-be~~ is the duty of the board of county commissioners to fix and levy on all the taxable value of all the real and personal property within the district all district and county taxation required to finance, within the limitations provided by law, the final budget ~~and-any-emergency-budget-of-the district~~."

Section 10. Section 20-9-145, MCA, is amended to read:

"20-9-145. ~~Overschedule--permissive~~ Permissive amount of general fund budget -- permissive levy. Whenever the trustees of **any** a district determine it necessary to adopt a general fund budget in excess of the foundation program amount for that district, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. This amount is the "permissive amount" and may not exceed ~~[the equivalent-of-the-percent-to-be-determined-that-is-112%-of-FY-1988 district--general-fund-and-insurance-fund-expenditures]~~ 35% of the foundation program amount. It must be financed by ~~the-district-and established-as-provided-in-20-9-142~~ a levy on the taxable value of all property within the district, by any guaranteed tax base aid for which the district may be eligible, and by other revenue available to the district for other than foundation program support."

Section 11. Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of ~~emergency~~ budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term **"~~emergency~~"** "budget amendment" for the purpose of school budgeting ~~shall-be~~ means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district ~~over-the-immediately-preceding-school-fiscal-year~~ **which** that is beyond what could reasonably have been anticipated

at the time of the adoption of the budget for the ~~then-current~~ current school fiscal year whenever, because of ~~such~~ the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or **any** act of God, to **such** an extent ~~as-to render-such~~ rendering school property unfit for its present school use;

(3) a judgment for damages against the district ~~rendered~~ issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district; ~~or~~

(5) receipt of:

(a) settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;

(c) delinquent taxes from a prior school fiscal year; and

(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection

(5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district as a result of the protested taxes; or

~~(5)~~(6) any other ~~reason of similar consequences that has been approved by the superintendent of public instruction upon petition by the trustees of the district or by the board of regents upon petition by the trustees of a community college district~~ unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting the safety of the students and district employees or the educational functions of the district."

Section 12. Section 20-9-162, MCA, is amended to read:

"20-9-162. Authorization for emergency budget amendment adoption. ~~Emergency budgets~~ (1) Notwithstanding the provisions of subsections (2) and (3), a budget amendment may be adopted at any time of the school fiscal year, except that ~~emergency budgets~~ a budget amendment required by an enrollment increase that could not have been anticipated at the time of the adoption of the regular budget as provided in 20-9-161(1) may not be adopted until after ~~December 31~~ October 1.

(2) If a budget amendment for the reasons provided in 20-9-161(1) through (4) does not cause the district general fund budget to exceed the limitations in 20-9-315, the trustees may approve the budget amendment by a resolution as provided in 20-9-163. The trustees shall send a copy of the resolution to the

county superintendent and to the board of county commissioners of the county.

(3) The trustees shall submit the following to the superintendent of public instruction for approval in the manner provided in 20-9-163:

(a) a budget amendment for the reasons provided in 20-9-161(5) and (6); and

(b) a budget amendment for any reason provided in 20-9-161(1) through (4) that causes the district general fund budget to exceed the limitations in 20-9-315."

Section 13. Section 20-9-163, MCA, is amended to read:

"20-9-163. Resolution for emergency budget amendment -- petition to superintendent of public instruction ~~or to the board of regents~~. (1) ~~Whenever~~ Notwithstanding the provisions of subsection (3), whenever the trustees of ~~any~~ a district decide that ~~an emergency exists~~ a budget amendment is necessary, they may adopt a resolution proclaiming ~~such emergency~~ the budget amendment by a ~~unanimous~~ majority vote of ~~all members present at any meeting for which each trustee has been given reasonable notice of the time and place of holding such meeting~~ the trustees. The emergency budget amendment resolution ~~shall~~ must also state the facts constituting the ~~emergency~~ need for the budget amendment, the estimated amount of money required to ~~meet the emergency~~ fund the budget amendment, the funds affected by ~~the emergency~~ the budget amendment, and the time and place when the board will meet for the

purpose of considering and adopting ~~an--emergency~~ a budget amendment for ~~such~~ funds for the current school fiscal year.

(2) If the trustees ~~decide-that-an-emergency-exists-for-any reason-other-than-the-conditions--specified--in--subsections--(1),-(2),---(3),---or---(4)---of--20-9-161,--they--shall--petition--the superintendent--of--public--instruction--or,--in--the--case--of--a community-college-district,-the-board-of-regents-for-permission-to adopt-a-resolution-of-emergency.-Such-petition-shall-set-forth--in writing--the--reasons-for-the-request,-the-district-funds-affected by-the-emergency,-the-estimated-amount-of-money-required--to--meet such--emergency-for-each-affected-fund,-the-anticipated-sources-of financing--for--the--emergency--expenditures,---and---such---other information--as--may--be--required-by-the-superintendent-of-public instruction-or-the-board-of-regents.-The-petition-shall-be--signed by--each-trustee,~~ of a school district determine that the proposed budget amendment will cause the district general fund to exceed the limitations of 20-9-315 or is for the reasons provided in 20-9-161(5) and 20-9-161(6), the trustees shall petition the superintendent of public instruction for permission to adopt a resolution for a budget amendment. The petition must set forth in writing the reasons for the request, the district funds affected by the budget amendment, the estimated amount of money required for the budget amendment for each affected fund, the anticipated sources of financing for the budget amendment expenditures, and any other information required by the superintendent of public

instruction. The petition must be signed by a majority of the trustees.

(3) The superintendent of public instruction ~~or,-in-the-case of-a-community--college--district,--the--board--of--regents~~ shall promptly approve or disapprove the petition requesting approval to adopt a resolution ~~of--emergency~~ for a budget amendment. If the petition is approved, the trustees may ~~then~~ adopt a resolution ~~of emergency~~ for a budget amendment and ~~may-subsequently~~ take all other steps required for the adoption of ~~an--emergency~~ a budget amendment. Approval of a petition by the superintendent of public instruction ~~or--the--board--of--regents shall--merely--authorize~~ authorizes the board of trustees to initiate ~~emergency~~ a budget ~~proceedings~~ amendment by resolution and ~~shall~~ does not relieve the trustees of the necessity of complying with the requirements of the school ~~emergency~~ budgeting laws. Approval of the petition ~~shall~~ may not be construed as approval of any subsequent application for increased state aid on account of ~~such--emergency~~ the budget amendment."

Section 14. Section 20-9-164, MCA, is amended to read:

"20-9-164. Notice of ~~emergency~~ budget amendment resolution. A copy of the ~~emergency~~ budget amendment resolution ~~shall~~ must be published one time in a newspaper that will give notice to the largest number of people of the district as determined by the trustees, and a copy of the resolution ~~shall~~ must be posted at each schoolhouse of the district. A copy of the ~~emergency~~ budget

amendment resolution ~~shall~~ must also be delivered to the county superintendent and to the county clerk as the clerk of the board of county commissioners of the county. The publication, posting, and delivery of the resolution ~~shall~~ must be done not less than 1 week before the day specified in the resolution for the consideration and adoption of ~~an emergency~~ a budget amendment."

Section 15. Section 20-9-165, MCA, is amended to read:

"**20-9-165. Emergency---budget Budget amendment limitation, preparation, and adoption procedures.** (1) The meeting of the trustees to consider and adopt ~~an--emergency~~ a budget ~~shall~~ amendment must be open to the public, and any taxpayer in the district ~~shall--have~~ has the right to appear and be heard. If at ~~such a~~ the meeting a majority of the trustees present ~~shall~~ find that ~~an--emergency--exists~~ there is sufficient need for a budget amendment, the trustees may make and adopt a preliminary ~~emergency~~ budget amendment, on the regular budget form, setting forth fully the facts constituting the ~~emergency~~ need for the budget amendment. In adopting the preliminary ~~emergency~~ budget amendment, the trustees may budget for any fund ~~which~~ that was included on the final budget of the district for the current school fiscal year. The budget ~~shall~~ must be itemized to show the amount appropriated for each item as required on the budget form.

(2) When the ~~emergency~~ budget amendment is ~~due--to--any increase~~ the result of increased enrollment, the maximum amount of the ~~emergency~~ budget amendment for all funds ~~shall~~ must be

determined in the following manner:

(a) Determine the total amount in the final budget for the current school fiscal year of all funds affected by the ~~emergency~~ enrollment increase, less any amounts appropriated as capital outlay and any amount appropriated for addition to the ~~cash~~ operating reserve.

(b) Divide the amount determined in subsection (2)(a) by the number of pupils originally enrolled in ~~such~~ the district during the immediately preceding school fiscal year. The resulting cost per pupil ~~shall--constitute~~ is the maximum permissible per-pupil expenditure in the ~~emergency~~ budget amendment.

(c) Determine the enrollment increase of the current school fiscal year by subtracting the number of pupils originally enrolled during the immediately preceding school fiscal year from the number of pupils enrolled for the current school year. The result ~~shall be~~ is the enrollment increase for the current school fiscal year.

(d) Multiply the cost per pupil determined in subsection (2)(b) by the enrollment increase determined in subsection (2)(c). The result ~~shall--be~~ is the maximum limitation on ~~an emergency~~ a budget amendment for ~~emergencies~~ amendments ~~due to an increase--of~~ resulting from increased enrollment.

~~(e)--In--the--case--of-a-community-college-district,-by-budget amendment:~~

(3) ~~In-the-event-of-any-other-type--of--emergency~~ For other

types of budget amendments, the budget ~~shall be~~ amendment is limited ~~by those~~ to the expenditures ~~deemed~~ considered by the trustees to be reasonable and necessary to finance the ~~stated~~ conditions of the ~~emergency~~ budget amendment and the preliminary ~~emergency~~ budget ~~shall~~ amendment must ~~be accompanied with~~ include the details of the proposed expenditures.

(4) Whenever the trustees adopt a preliminary ~~emergency~~ budget amendment for the transportation fund, the trustees shall attach to ~~such~~ the budget amendment a copy of each transportation contract ~~which~~ that is connected with the ~~emergency~~ budget amendment and ~~which~~ that has been prepared and executed in accordance with the school transportation contract laws.

(5) After the trustees have adopted the ~~emergency~~ budget amendment by a majority vote of the trustees, it ~~shall~~ must be signed by the chairman of the trustees and the clerk of the district and copies ~~shall~~ must be sent to the county superintendent, the county treasurer, and the superintendent of public instruction. ~~In the case of a community college district, copies of the emergency budget shall be sent to the county superintendent, the county treasurer, and the board of regents.~~"

Section 16. Section 20-9-166, MCA, is amended to read:

"20-9-166. ~~State financial aid for emergency budgets~~ budget amendments. Whenever a final ~~emergency~~ budget amendment has been adopted for the general fund or the transportation fund to finance the cost of an ~~emergency~~ amendment ~~due to an~~ resulting from

increased enrollment or any other reason approved by the superintendent of public instruction under the provisions of 20-9-163, the trustees may apply to the superintendent of public instruction for an increased payment from the state public school equalization aid account for the foundation program or for state transportation reimbursement, or both. The superintendent of public instruction shall ~~publish~~ adopt rules for ~~such~~ the application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with 20-9-314 and this section. When the superintendent of public instruction approves an application, he shall determine the additional amount of state aid from the state public school equalization aid account or the state transportation reimbursement ~~which~~ that will be made available to the applicant district because of the ~~emergency caused by an~~ increase in enrollment. The superintendent of public instruction shall notify the applicant district of his approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse ~~such emergency~~ the state aid to the eligible district at the time the next regular state aid payment is made."

Section 17. Section 20-9-201, MCA, is amended to read:

"20-9-201. Definitions and application. (1) As used in this title, unless the context clearly indicates otherwise, "fund"

means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law or by the superintendent of public instruction under the provisions of subsection (2). Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend money from the fund. The general fund, transportation fund, bus depreciation reserve fund, ~~elementary~~ tuition fund, retirement fund, debt service fund, ~~leased--facilities--fund,~~ building reserve fund, adult education fund, nonoperating fund, and any other funds ~~so~~ designated by the legislature are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend money on deposit in the fund. The school food services fund, miscellaneous ~~federal~~ programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, extracurricular fund, metal mines tax reserve fund, endowment fund, and any other funds ~~so~~ designated by the legislature are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district ~~except--the--extracurricular-money-realized-from-pupil-activities~~. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The superintendent of public instruction has general supervisory authority as prescribed by law over the

school financial administration provisions, as they relate to elementary and high school districts. ~~He~~ The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) Except as otherwise provided by law, whenever the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to the general fund if the fund does not have a cash or fund balance deficit."

Section 18. Section 20-9-206, MCA, is amended to read:

"20-9-206. Entering appropriations on accounting records of county treasurer. (1) When the county treasurer receives the final budgets of the districts from the county superintendent, he shall open a fund for each budgeted fund included on the final budget of each district by entering the amount appropriated for the fund on his accounting record.

(2) Whenever the county treasurer receives a final ~~emergency~~ budget amendment for a district from the county superintendent, he shall increase the amount of the regularly adopted final budget by the amount of ~~the-emergency-budgeted-fund-included-on~~ the final ~~emergency~~ budget amendment."

Section 19. Section 20-9-208, MCA, is amended to read:

"20-9-208. Transfer among appropriation items of a fund. (1) Whenever it appears to the trustees of ~~any~~ a district that the appropriated amount of ~~any~~ an item of a budgeted fund of the final

budget or ~~the emergency~~ a budget amendment is in excess of the amount actually required during the school fiscal year for ~~such~~ the appropriation item, the trustees may transfer any or all of the excess appropriation amount to any other appropriation item of the same budgeted fund.

(2) ~~Such transfers shall~~ Transfers may not be made between different funds of the same district or between similar funds of different districts except as specifically provided by this title. The trustees shall enter the authorized transfers upon the permanent records of the district."

Section 20. Section 20-9-209, MCA, is amended to read:

"20-9-209. Lapse of budgeted appropriations and provision for unpaid claims. (1) All appropriations for a budgeted fund in the regular ~~or emergency~~ budget or for a budget amendment for a given school fiscal year ~~shall~~ lapse on the last day of ~~such~~ the school fiscal year except the appropriations for:

(a) uncompleted improvements in progress of construction; and

(b) ~~any~~ an obligation for the purchase of personal property ordered but not paid for during the current fiscal year and recorded with the county treasurer in the manner and on forms prescribed by the superintendent of public instruction.

(2) ~~Any~~ A lawful claim presented to the district for payment under a lapsed appropriation ~~shall be~~ is an obligation of the budget for the next ensuing school fiscal year."

Section 21. Section 20-9-210, MCA, is amended to read:

"20-9-210. Expenditure limitation ~~and cash retention~~ of nonbudgeted fund. The expenditure limitation, at any time during the school fiscal year, for a nonbudgeted fund ~~shall be~~ is the amount of cash balance of ~~such~~ the nonbudgeted fund. ~~The cash balance of a nonbudgeted fund shall remain to the credit of such nonbudgeted fund from year to year unless a transfer is specifically authorized by this title.~~"

Section 22. Section 20-9-214, MCA, is amended to read:

"20-9-214. Fees. (1) The trustees of ~~any~~ a district may:

(a) require pupils in the commercial, industrial arts, music, domestic science, scientific, or agricultural courses to pay reasonable fees to cover the actual cost of breakage and of excessive supplies used; and

(b) charge pupils a reasonable fee for ~~any~~ a course or activity not reasonably related to a recognized academic and educational goal of the district or ~~any~~ a course or activity held outside normal school functions. The trustees may waive the fee in cases of financial hardship.

(2) The fees collected pursuant to ~~subsection (1) shall be~~ subsection (1)(a) must be deposited in the general fund, and the fees collected pursuant to subsection (1)(b) must be deposited in a nonbudgeted fund as provided in 20-9-210."

Section 23. Section 20-9-221, MCA, is amended to read:

"20-9-221. Procedure for issuance of warrants. (1) The trustees of each district shall issue all warrants, and the

warrants ~~shall~~ must identify:

(a) the budgeted fund or nonbudgeted fund on which the warrant is drawn; and

(b) the warrant as ~~an emergency~~ a budget amendment warrant if it is drawn on ~~an emergency~~ a budget amendment.

(2) ~~Any warrant~~ All warrants issued by a district ~~shall~~ must be countersigned by the chairman of the trustees and the clerk of the district before the ~~warrant shall be~~ warrants are negotiable. Facsimile signatures may be used in accordance with the provisions of 2-16-114. A facsimile signature device used under authority of this section ~~must~~ may not be available to the other countersigner of the warrant, or the device must have a nonresettable metering control that can provide a positive reconciliation between the number of warrants issued and the number of signatures applied. Either split signature plates or a double signature plate may be used according to the requirements of the district. The signature plates and the device keys must be kept secure by the district clerk under the supervision of the board of trustees of the district.

(3) The trustees shall issue warrants in single copy or in triplicate copy. When the warrants are issued in single copy, the trustees shall immediately provide a listing of the issued warrants on a fund-by-fund basis to the county treasurer and retain a copy of the listing in the district accounting records. When the warrants are issued in triplicate, the original copy of

the warrant ~~shall~~ must be delivered to the payee, the duplicate ~~shall~~ must be sent immediately to the county treasurer, and the triplicate ~~shall~~ must be retained by the district for accounting record purposes. The duplicate and triplicate copies ~~shall~~ must be identified on the face of the warrant as "Not Negotiable--Copy of Original".

(4) However, the trustees may elect to issue warrants in payment of wages and salaries on a direct deposit basis to the employee's account in a local bank, provided the consent of the employee has been obtained and the employee is given an itemized statement of payroll deductions for each pay period."

Section 24. Section 20-9-231, MCA, is amended to read:

"20-9-231. ~~Metal mines tax reserve account~~ fund. (1) The governing body of a local school district receiving tax collections under 15-37-117(1)(d) may establish a ~~metal mines tax reserve account~~ fund to be used to hold the collections. The governing body may hold money in the ~~account~~ fund for any time period ~~deemed~~ considered appropriate by the governing body. Money held in the ~~account~~ fund may not be considered as ~~cash~~ fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the ~~account~~ fund for any purpose provided by law.

(3) Money in the ~~account~~ fund must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve ~~account~~ fund must be credited to the ~~account~~ fund.

(4) The fund must be financially administered as a nonbudgeted fund under the provisions of this title."

Section 25. Section 20-9-301, MCA, is amended to read:

"20-9-301. Purpose of foundation program and definition of general fund budget. (1) A uniform system of free public schools sufficient for the education of and open to all school age children of the state must be established and maintained throughout the state of Montana. The state shall aid in the support of its ~~several~~ school districts on the basis of their financial need as measured by the foundation program and in the manner established in this title.

(2) The principal budgetary vehicle for achieving the minimum financing as established by the foundation program is the general fund budget of the district. The purpose of the general fund budget is to finance those general maintenance and operational costs of a district not financed by other funds established for special purposes in this title.

(3) The amount of the general fund budget for each school fiscal year may not exceed the financing limitations established by this title but may not be less than the amount established by law as the foundation program. The general fund budget must be financed by the foundation program revenues and may be supplemented by ~~an additional~~ a permissive levy, voted levy ~~and~~, or other revenue, as provided by 20-9-145 and 20-9-353."

Section 26. Section 20-9-315, MCA, is amended to read:

"20-9-315. Maximum general fund budget and exceptions. (1) The total amount of the general fund budget of ~~any~~ a district may not be greater than the district's foundation program as provided in 20-9-303, except when a district has adopted ~~an emergency general fund~~ a budget amendment under the provisions of 20-9-165 or when a district satisfies the requirements of 20-9-145 and 20-9-353.

(2) Notwithstanding the provisions of subsection (1), for school fiscal year 1991 and succeeding years, a district's maximum general fund budget may not exceed the greater of:

(a) ~~[the equivalent of the percent to be determined that is 112% of FY 1988 district general fund and insurance fund expenditures]~~ 135% of the foundation program amount provided for in 20-9-303; or

(b) 104% of the district's general fund budget amount for the previous school fiscal year, including any school district expenses from the previous school fiscal year approved for inclusion in this calculation by the superintendent of public instruction under [section 50].

(3) Subsection (2) does not apply when the source of funding for the excess amount is any of the following:

(a) Public Law 81-874 funds ~~are the source of funding for the excess amount~~, until the state receives approval of an application to equalize the funds under 20 U.S.C. 240(d); or

(b) general bonus payments under 20-6-401."

Section 27. Section 20-9-321, MCA, is amended to read:

"**20-9-321. Foundation program and contingency funds for special education.** (1) For the purpose of establishing the foundation program amount for a current year special education program for a school district, the superintendent of public instruction shall determine the total estimated cost of the special education program for the school district on the basis of a special education program budget submitted by the district. The budget must be prepared on forms provided by the superintendent of public instruction and must set out for each program:

(a) the estimated allowable costs associated with operating the program where allowable costs are as defined in 20-7-431;

(b) the number of pupils expected to be enrolled in the program; and

(c) any other data required by the superintendent of public instruction for budget justification purposes and to administer the provisions of 20-9-315 through 20-9-321.

(2) The total amount of allowable costs approved by the superintendent of public instruction is the special education foundation program amount for current year special education program purposes. The total amount of allowable costs that are approved for the special education budget may not, under any condition, be less than the foundation program amount for one regular ANB for each full-time special pupil in the school district.

(3) If a special education program is implemented or expanded during a given school term too late to be included in the determination of the district foundation program for the school year as prescribed in this part, allowable costs approved under the budgeting provisions of subsections (1) and (2) for the operation of the program during the given year must be ~~funded~~ from any legislative appropriation for contingency financing for special education. Contingency funds granted under this subsection must be deposited in a separate account of the miscellaneous programs fund of the district as provided in 20-9-507. However, if contingency funds are not available, then subject to the approval of the program by the superintendent under the emergency budget amendment provisions of 20-9-161~~(5)~~(6), allowable costs for the given year may be funded in the miscellaneous programs fund by other revenue sources and added to the foundation program amount for special education for the subsequent school year under the provisions of [section 50]. The allowable costs must be recorded as previous year special education expenses in the school district budget for the subsequent school year.

(4) The sum of the previous year special education expenses as defined in subsection (3) and the foundation program amount for current year special education as defined in subsections (1) and (2) is the special education budget for accounting purposes.

(5) The foundation program amount for special education must be added to the foundation program amount of the regular program

ANB defined in 20-9-311 and 20-9-313 to obtain the total foundation program amount for the district."

Section 28. Section 20-9-344, MCA, is amended to read:

"20-9-344. Purpose of state equalization aid and duties of the board of public education for distribution -- conditions of first payment. (1) The money available for state equalization aid must be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings and grounds, and transportation.

(2) The board of public education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law and in a manner that provides for monthly distribution to each district of its foundation program amount and to each county and district distribution of its guaranteed tax base aid;

(b) have the power to require reports from the county superintendents, budget boards, county treasurers, and trustees as it considers necessary; and

(c) order the superintendent of public instruction to

distribute the state equalization aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education may not increase or decrease the state equalization aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(3) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(4) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(5) If a district or county receives more state equalization aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the ~~department of~~

commerce superintendent of public instruction.

(6) (a) The first foundation program payment and guaranteed tax base aid payment must be based on an estimate of 20% of the entitlement of each district or county and distributed by July 15 of the school fiscal year.

(b) Each subsequent monthly payment must be at least 7% of the entitlement of each district or county."

Section 29. Section 20-9-353, MCA, is amended to read:

"20-9-353. Additional levy for general fund -- election for authorization to impose. (1) Except as limited by 20-9-315(2), the trustees of any a district may propose to adopt a general fund budget in excess of the foundation program and the permissive amount for the district for any of the following purposes:

(a) building, altering, repairing, or enlarging any schoolhouse of the district;

(b) furnishing additional school facilities for the district;

(c) acquisition of land for the district;

(d) proper maintenance and operation of the school programs of the district; or

(e) severance pay for district employees.

(2) When the trustees of any a district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount and the permissive amount, the trustees shall submit the proposition of an additional levy to raise the excess amount of general fund

financing to the electors who are qualified under 20-20-301 to vote upon the proposition, except that an election is not required to permit the school trustees to use any funds available to finance the additional amount other than those funds to be raised by the additional levy. The special election must be called and conducted in the manner prescribed by this title for school elections. The ballot for the election must state only the amount of money to be raised by additional property taxation, the approximate number of mills required to raise the money, and the purpose for which the money will be expended. The ballot must be in the following format:

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in the number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional tax levy is made)?

☐ FOR the levy.

☐ AGAINST the levy.

(3) If the election on any additional levy for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget. The trustees shall certify the additional levy amount authorized by the special election on the

budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141, to raise the amount of the additional levy.

~~-~~ (4) Authorization to levy an additional tax under the provisions of this section is effective for only 1 school fiscal year and must be authorized by a special election conducted before August 1 of the school fiscal year for which it is effective."

Section 30. Section 20-9-360, MCA, is amended to read:

"20-9-360. State equalization aid levy. (1) There is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204. Except as provided in subsection (2), proceeds of the levy must be remitted to the state treasurer and must be deposited to the credit of the state special revenue fund for state equalization aid to the public schools of Montana.

(2) For the benefit of each municipality that created an urban renewal area and adopted a tax increment financing provision for the urban renewal area prior to July 1, 1990, ~~each year~~ the state treasurer shall distribute ~~to the county an amount of~~ each fiscal year from the state equalization ~~levy equal to the tax increment derived by the municipality~~ aid levy to the municipality the amount, if any, equal to the product of the incremental

taxable value of the urban renewal area times the reduced school levy for the area, each calculated for the fiscal year ~~ending June 30, 1989, from the levy for property taxes for school district purposes against property within the urban renewal district, less the amount of tax increment actually received by the municipality in each year as a result of the imposition of mill levies for school district purposes~~. The reduced school levy for a fiscal year is the difference between the aggregate amount of all property tax levies for school purposes in the urban renewal area, expressed in mills, in the fiscal year ended June 30, 1989, and the aggregate amount of all property tax levies for school purposes in the area or the district, expressed in mills, in the fiscal year, including the state equalization aid levy. The state treasurer shall distribute the amounts to municipalities in two equal installments on December 31 and June 30 of the fiscal year."

Section 31. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County mill value per elementary ANB" or "county mill value per high school ANB" means the sum of the current taxable valuation of all property in the county plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of ~~schools~~ the

elementary school and high school district retirement funds, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for ~~schools~~ the county retirement fund is the amount of nonlevy revenue ~~received-by-a-district~~ deposited in the elementary school or high school district retirement fund in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the ~~district~~ county in the previous year in support of the elementary school and high school district retirement funds, multiplied by 1,000.

(2) "District mill value per ANB" means the current taxable valuation of all property in the district plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of ~~schools~~ the school district's general fund, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current

year foundation program schedule amount. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of nonlevy revenue ~~received--by~~ deposited in a ~~district~~ district's general fund in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year in support of the district's general fund, multiplied by 1,000.

(3) "~~Guaranteed--overschedule--general-fund-budget~~ Permissive amount" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding ~~135%~~ 35% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide district mill value per elementary ANB" or "statewide district mill value per high school ANB" means the sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of ~~schools~~ the general funds of all school districts, other than Public Law 81-874 funds, divided by 1,000, with the

quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for schools is the amount of nonlevy revenue ~~received by a district~~ deposited to the general fund of a school district in the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the district in the previous year in support of the district general fund, multiplied by 1,000.

(5) "Statewide county mill value per elementary ANB" or "statewide county mill value per high school ANB" means the sum of the current taxable valuation of all property in the state plus the taxable value of oil and gas net proceeds determined under 15-23-607(4) for production occurring after March 31, 1990, plus the taxable value of coal gross proceeds determined under 15-23-703(3) plus all the taxable value of nonlevy revenue for the support of the elementary school or high school district retirement fund, other than Public Law 81-874 funds, divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts'

current year foundation program amounts. The taxable value of nonlevy revenue for the purpose of computing guaranteed tax base aid for the county retirement fund is the amount of nonlevy revenue deposited in the elementary school or high school district retirement fund the previous year, including for fiscal year 1991 the revenue received in fiscal year 1990 from the net proceeds taxation of oil and natural gas and including for fiscal year 1992 and thereafter the local government severance tax, divided by the number of mills levied by the county in the previous year in support of the elementary school and high school retirement funds, multiplied by 1,000."

Section 32. Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base aid. (1) If the district mill value per ANB of any elementary or high school district is less than the corresponding statewide district mill value per elementary ANB or high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of its ~~guaranteed overschedule~~ permissive amount of the general fund budget.

(2) If the county mill value per elementary ANB or high school ANB is less than the corresponding statewide county mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county."

Section 33. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid -- reversion. (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide county mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets of the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide county mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets of the high school districts in the county.

(3) The amount of guaranteed tax base aid per ANB that a district may receive in support of its ~~guaranteed-overschedule~~ permissive amount of the general fund budget is the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's ~~guaranteed overschedule~~ permissive amount of the general fund budget.

(4) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or

portion of the fund for which it is provided. If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

Section 34. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1) The maximum amount for which each school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of ~~such~~ the indebtedness, including:

(a) the taxable value of coal gross proceeds as determined for county bonding purposes in 15-23-703(2);

(b) the taxable value of oil and gas net proceeds as determined for county bonding purposes in 15-23-607(3); and

(c) the amount of the value of any other oil and gas production occurring after December 31, 1988, multiplied by 60%.

(2) The 45% maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment

of tax protests lost by the district. All bonds issued in excess of ~~such~~ the amount ~~shall be null and~~ are void, except as provided in this section.

~~(2)~~(3) When the total indebtedness of a school district has reached the 45% limitation prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

~~(3)~~(4) Whenever bonds are issued for the purpose of refunding bonds, any ~~moneys~~ money to the credit of the debt service fund for the payment of the bonds to be refunded are is applied towards the payment of ~~such~~ the bonds and the refunding bond issue is decreased accordingly."

Section 35. Section 20-9-435, MCA, is amended to read:

"20-9-435. Delivery of school district bonds and disposition of sale moneys. (1) After the school district bonds have been registered, the county treasurer shall:

(a) when the board of investments has purchased ~~such~~ the bonds, forward the bonds to ~~such~~ the state board which, in turn, shall ~~cause~~ send the bonds ~~to be sent~~ to the state treasurer and shall cause the bonds to be paid for in the manner provided by law; or

(b) when if the purchaser is anybody other than the board of investments, deliver the bonds to ~~such~~ the purchaser when full payment of the bonds has been made by the purchaser.

(2) If any of the trustees fails or refuses to pay into the proper county treasury the money arising from the sale of ~~any bonds~~ a bond, he is guilty of a felony and shall be punished by imprisonment in the state prison for not less than 1 year or more than 10 years~~,~~ or by a fine of not more than $50,000, or ~~by~~ both ~~such fine and imprisonment~~.

(3) All money realized from the sale of school district bonds ~~shall~~ must be paid to the county treasurer, and he shall credit ~~such~~ the money to the building fund of the school district issuing the bonds, except money realized for accrued interest or the purposes defined in 20-9-403(1)(c) and (1)(d) ~~shall~~ must be deposited in the debt service fund ~~for the purchase of such bonds~~. The money realized from the sale of school district bonds ~~shall~~ must be immediately available to ~~such~~ the school district, and the trustees may expend ~~such~~ the money without budgeted authorization only for the purposes for which the bonds were authorized by the school district bond election. Under the provisions of 7-6-2802, the trustees may invest the money for which there is no immediate demand and the interest earned by ~~such~~ investment ~~shall~~ must be used in the manner provided ~~therein~~ in 7-6-2802. After the full accomplishment of the purpose or purposes of a bond issue, the excess money realized from ~~such~~ the bond issue ~~shall~~ must be transferred to the debt service fund of the school district to be used for the redemption or purchase of bonds of ~~such~~ the issue."

Section 36. Section 20-9-438, MCA, is amended to read:

"20-9-438. Preparation of debt service fund budget -- ~~cash~~ operating reserve. (1) The trustees of each school district having outstanding bonds shall include in the debt service fund of the preliminary budget adopted in accordance with 20-9-113 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of ~~such~~ the bonds and the redemption plans of the trustees.

(2) The trustees shall also include in the debt service fund of the preliminary budget:

(a) the amount of money necessary to pay the special improvement district assessments levied against the school district ~~which~~ that become due during the ensuing school fiscal year; and

(b) a limited ~~cash~~ operating reserve for the school fiscal year following the ensuing school fiscal year as provided in subsection (3).

(3) At the end of each school fiscal year, the trustees of a school district may designate a portion of the end-of-the-year ~~cash~~ fund balance of the debt service fund to be earmarked as a limited ~~cash~~ operating reserve for the purpose of paying, whenever a cash flow shortage occurs, debt service fund warrants and bond obligations ~~which~~ that must be paid from July 1 through November 30 of the school fiscal year following the ensuing school fiscal

year. Any portion of the debt service fund end-of-the-year ~~cash~~ fund balance not earmarked for limited ~~cash~~ operating reserve purposes must be reappropriated to be used for property tax reduction as provided in 20-9-439.

(4) The county superintendent shall compare the preliminary budgeted amount for the debt service fund with the bond retirement and interest requirement and the special improvement district assessments for the school fiscal year just beginning as reported by the county treasurer in his statement supplied under the provisions of 20-9-121. If the county superintendent finds that the requirement stated by the county treasurer is more than the preliminary budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the preliminary budget. The amount confirmed or revised by the county superintendent ~~shall be~~ is the final budget expenditure amount for the debt service fund of ~~such~~ the school district."

Section 37. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement -- procedure when levy inadequate. (1) The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) determine the total ~~moneys~~ money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year ~~cash~~ fund balance~~, less--any outstanding-warrants~~ in the debt service fund ~~and~~, less any limited ~~cash~~ operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other ~~moneys~~ money anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income;

(b) the total amount available to reduce the property tax, determined in subsection (1)(a), ~~shall~~ must be subtracted from the final budget expenditure amount for the debt service fund as established in 20-9-438;

(c) the net debt service fund levy requirement determined in subsection (1)(b) ~~shall~~ must be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy ~~shall~~ must be made by the county commissioners in accordance with 20-9-142.

(2) If the board of county commissioners ~~shall fail~~ fails in any school fiscal year to make a levy for any issue or series of bonds of ~~any~~ a school district sufficient to raise the ~~moneys~~ money necessary for payment of interest and principal becoming due

during the next ensuing school fiscal year, in ~~such~~ any amounts ~~as~~ are established under the provisions of this section, the holder of any bond of ~~such~~ the issue or series or any taxpayer of the district may apply to the district court of the county in which ~~such~~ the school district is located for a writ of mandate to compel the board of county commissioners of ~~such~~ the county to make a sufficient levy for such purposes. If, upon the hearing of ~~such~~ the application, it ~~shall appear~~ appears to the satisfaction of the court that the board of county commissioners of ~~such~~ the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of ~~such~~ the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in ~~such~~ the school district that is sufficient to raise the amount of ~~such~~ the deficiency. ~~Such~~ The levy ~~shall be~~ is in addition to any levy required to be made at that time for the ~~then-ensuing~~ ensuing school fiscal year. Any costs ~~which~~ that may be allowed or awarded the petitioner in ~~any-such~~ the proceeding ~~shall~~ must be paid by the members of the board of county commissioners and ~~shall~~ may not be a charge against the school district or the county."

Section 38. Section 20-9-471, MCA, is amended to read:

"20-9-471. Issuance of short-term obligations -- authorization -- conditions. (1) The trustees of a school district may, without a vote of the electors of the district, issue and sell to the board of investments short-term obligations for the purpose of financing all or a portion of:

(a) the costs of vehicles and equipment;

(b) the costs associated with renovating, rehabilitating, and remodeling facilities, including but not limited to roof repairs, heating, plumbing, and electrical systems;

(c) any other capital expenditure the district is otherwise authorized to make, subject to subsection (4); and

(d) the costs associated with the issuance and sale of the short-term obligations.

(2) The term of the short-term obligation may not exceed 5 full fiscal years.

(3) At the time of issuing the obligation, there must exist an amount in the budget for the current fiscal year available and sufficient to make the debt service payment on the obligation coming due in the current year. The budget for each following year in which any portion of the principal of and interest on the obligation is due must provide for payment of ~~such~~ that principal and interest.

(4) The proceeds of the short-term obligation may not be used to acquire real property or construct a facility.

(5) An obligation issued is payable from any legally

available fund of the district and constitutes a general obligation of the district.

(6) The obligation may bear interest at a fixed or variable rate and may be sold to the board of investments at par, at a discount, or with a premium, and upon any other terms and conditions that the trustees determine to be in the best interests of the district.

(7) The principal amount of the short-term obligation, when added to the outstanding bonded indebtedness of the district, may not exceed the debt limitation established in 20-9-406."

Section 39. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement fund. (1) The trustees of ~~any~~ a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to ~~such~~ the systems. The district's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-801. The district's contributions for each employee covered by any federal social security system must be paid in accordance

with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of ~~any~~ a district required to make a contribution to ~~any~~ a system referred to in subsection (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to ~~such~~ the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) ~~anticipated--guaranteed--tax--base--aid--in--support---of retirement;~~

~~(iii)~~ net proceeds taxes and local government severance taxes on any other oil and gas production occurring after December 31, 1988;

~~(iv)~~(iii) coal gross proceeds taxes under 15-23-703; ~~and~~

~~(v)~~(iv) any ~~cash~~ fund balance available for reappropriation as

determined by subtracting the amount of the end-of-the-year ~~cash~~ fund balance earmarked as the retirement fund ~~cash~~ operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year ~~cash~~ fund balance in the retirement fund. The retirement fund ~~cash~~ operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget; and

(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (8), subtracting the money available for reduction of the levy requirement, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the second Monday of August as the respective county levy requirements for elementary district, high school district, and

community college district retirement funds.

(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.

(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the ~~budget--for--the--special--education cooperative-agreement-of-the-district-bears-to-the-total-budget-of the-cooperative~~ special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to

finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000."

Section 40. Section 20-9-504, MCA, is amended to read:

"20-9-504. Extracurricular fund for pupil functions. (1) The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All extracurricular moneys of ~~any~~ a pupil organization of the school ~~shall~~ must be deposited and expended by check from a bank account maintained for the extracurricular fund.

(2) An accounting system for the extracurricular fund recommended by the ~~department-of-commerce shall~~ superintendent of public instruction must be implemented by the trustees. ~~Such~~ The accounting system ~~shall~~ must provide for:

(a) the internal control of the cash receipts and expenditures of the money; and

(b) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for

each student function."

Section 41. Section 20-9-505, MCA, is amended to read:

"20-9-505. Purpose and establishment of nonoperating fund. (1) The trustees of ~~any~~ a district that will not operate ~~any~~ a school during the ensuing school fiscal year shall establish a nonoperating fund on the first day of ~~such~~ the school fiscal year. In establishing the nonoperating fund, the trustees shall cause the transfer of the end-of-the-year ~~cash~~ fund balance of each fund maintained by the district during the immediately preceding school fiscal year to the nonoperating fund. However, ~~cash~~ fund balances of the debt service fund and the miscellaneous ~~federal~~ programs fund, if any, ~~shall~~ must be maintained in their individual funds.

(2) The trustees of a district establishing a nonoperating fund for the first year of nonoperation may earmark a portion of the nonoperating fund ~~cash~~ balance as a nonoperating fund ~~cash~~ operating reserve when they anticipate the reopening of a school in the following school fiscal year. ~~Such cash~~ The operating reserve ~~shall~~ may not be more than the general fund ~~cash~~ operating reserve designated for the immediately preceding school fiscal year. If a school is not operated in the following school fiscal year, the authority of the trustees to earmark a nonoperating fund ~~cash~~ operating reserve ~~shall terminate~~ terminates and the ~~moneys~~ money earmarked as ~~a cash~~ an operating reserve ~~shall~~ must be used to reduce the levy requirement of the nonoperating fund. If the trustees acquire approval to reopen a school in the following

school fiscal year under the provisions of 20-6-502 or 20-6-503 and operate ~~such~~ the school, the nonoperating fund ~~cash~~ operating reserve ~~shall~~ must be restored as the general fund ~~cash~~ operating reserve.

(3) The purpose of the nonoperating fund ~~shall be~~ is to centralize the financing and budgeting for the limited functions of a district not operating a school. ~~Such~~ The functions ~~shall~~ include:

(a) elementary tuition obligations to other districts;

(b) transportation of the resident pupils;

(c) maintenance of district-owned property; and

(d) any other nonoperating school function of the district ~~deemed~~ considered necessary by the trustees or required by law.

(4) Any expenditure of nonoperating fund ~~moneys shall~~ money must be made in accordance with the financial administration provisions of this title for a budgeted fund."

Section 42. Section 20-9-507, MCA, is amended to read:

"20-9-507. Miscellaneous programs fund. (1) The trustees of ~~any~~ a district receiving ~~grants of~~ money from local, state, ~~or~~ federal ~~moneys~~, or other sources provided in 20-5-307(4), 20-5-312(8), and 20-9-321(3) other than ~~moneys~~ money under the provisions of Title I of Public Law 81-874 or federal ~~moneys~~ money designated for deposit in a specific fund of the district shall establish a miscellaneous programs fund for the deposit of ~~such moneys~~ the money. ~~Such moneys~~ The money may be a reimbursement of

miscellaneous program fund expenditures already realized by the district or may be a grant of ~~moneys~~ money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the ~~moneys are~~ money is a reimbursement, the ~~moneys--shall~~ money may be expended at the discretion of the trustees for school purposes. When the ~~moneys-are~~ money is a grant, the ~~moneys-shall~~ money must be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall cause a separate accounting to be maintained for each federal grant program and for the aggregate of all reimbursement ~~moneys~~ money.

(2) The financial administration of the miscellaneous programs fund ~~shall~~ must be in accordance with the financial administration provisions of this title for a nonbudgeted fund ~~which-shall-be-applied-by-individual-grant--programs--or--for--the aggregate--amount--of--the-reimbursement-moneys-rather-than-on-the basis-of-the-total-fund.~~"

Section 43. Section 20-10-101, MCA, is amended to read:

"20-10-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Transportation" ~~shall-mean~~ means:

(a) a district's conveyance of a pupil by a school bus

between his legal residence and the school designated by the trustees for his attendance; or

(b) ~~a-district's-conveyance--of--a--pupil--by--a--school--bus between----his----regular----school----of---attendance---and---the vocational-technical-secondary-schools-designated-by-the--trustees for--his--attendance--if--the--secondary-school-is-located-in-some other-school-district;-or~~

~~(c)~~ "individual transportation" whereby a district is relieved of actually conveying a pupil. ~~Such--individual~~ Individual transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised home study.

(2) An "eligible transportee" ~~shall--mean~~ means a public school pupil who:

(a) is ~~not-less-than~~ 5 years of age ~~nor~~ or older and has not attained his 21st birthday or who is a handicapped preschool child between the ages of 3 and 6;

(b) is a resident of the state of Montana;

(c) regardless of district and county boundaries, resides at least 3 miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; and

(d) is ~~deemed-by-law~~ considered to reside with his parent or guardian who maintains legal residence within the boundaries of

the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

(3) (a) A "school bus" means, except as provided in subsection (3)(b), any motor vehicle that:

(i) complies with the bus standards established by the board of public education as verified by the Montana department of justice's semiannual inspection of school buses and the superintendent of public instruction; and

(ii) is owned by a district or other public agency and operated for the transportation of pupils to or from school or owned by a carrier under contract with a district or public agency to provide transportation of pupils to or from school.

(b) A school bus does not include a vehicle that is:

(i) privately owned and not operated for compensation under this title;

(ii) privately owned and operated for reimbursement under 20-10-142;

(iii) either district-owned or privately owned, designed to carry not more than nine passengers, and used to transport pupils to or from activity events or to transport pupils to their homes in case of illness or other emergency situations; or

(iv) an over-the-road passenger coach used only to transport pupils to activity events."

Section 44. Section 20-10-143, MCA, is amended to read:

"20-10-143. Budgeting for transportation and transmittal of

transportation contracts. (1) The trustees of ~~any~~ a district furnishing transportation to pupils who are residents of ~~such~~ the district ~~shall~~ have the authority and it ~~shall be~~ is their duty to provide a transportation fund budget that is adequate to finance ~~such~~ the district's transportation contractual obligations and any other transportation expenditures necessary for the conduct of its transportation program. The transportation fund budget ~~shall~~ must include:

(a) an adequate amount to finance the maintenance and operation of district owned and operated school buses;

(b) the annual contracted amount for the maintenance and operation of school buses by a private party;

(c) the annual contracted amount for individual transportation, including any increased amount ~~due to~~ because of isolation, which ~~shall~~ may not exceed the schedule amounts prescribed in 20-10-142;

(d) any amount necessary for the purchase, rental, or insurance of school buses; and

(e) any other amount necessary to finance the administration, operation, or maintenance of the transportation program of the district, as determined by the trustees.

(2) The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill any obligation to provide transportation in accordance with the transportation law for any pupils not residing

in the district at the time of the adoption of the preliminary budget and who subsequently became residents of ~~such~~ the district during the school fiscal year or pupils who have become eligible transportees since the adoption of the preliminary budget because their legal residence has been changed. The budgeted contingency amount ~~shall~~ may not exceed 10% of the transportation schedule amount as calculated under the provisions of 20-10-141 and 20-10-142 for all transportation services authorized by ~~such~~ the schedule and provided by the district unless 10% of ~~such~~ the transportation schedule amount ~~shall be~~ is less than $100, in which case $100 ~~shall be~~ is the maximum limitation for ~~such~~ the budgeted contingency amount.

(3) As provided in 20-9-162, an ~~emergency~~ amendment to the transportation fund budget may be adopted subject to the provisions of the ~~emergency budgeting~~ budget amendment law.

(4) The transportation fund budgeted expenditures appropriated by the trustees ~~shall~~ must be reported on the regular budget form prescribed by the superintendent of public instruction in accordance with 20-9-103, and the adoption of the transportation fund budget ~~shall~~ must be completed in accordance with the school budgeting laws. When the adopted preliminary budget is sent to the county superintendent, the trustees shall also send copies of all completed transportation contracts for school bus transportation and individual transportation to the county superintendent. ~~Such~~ The contracts ~~shall~~ must substantiate

all contracted transportation services incorporated in the preliminary budget, and after the county superintendent has utilized the contracts for ~~such~~ that purpose but before the fourth Monday of July, he shall send all the transportation contracts received by him to the superintendent of public instruction. When the county superintendent determines a deviation between the preliminary transportation fund budget amount for contracted transportation services and the contracted amount for ~~such~~ the services, he shall immediately call the deviation to the attention of the appropriate trustees and shall allow the trustees to change the preliminary budgeted amount to compensate for ~~such~~ the deviation."

Section 45. Section 20-10-144, MCA, is amended to read:

"**20-10-144. Computation of revenues and net tax levy requirements for the transportation fund budget.** Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to

determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or $100, whichever is larger, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 3 and the resulting one-third amount is used to determine the available state and county revenue to be budgeted on the following basis:

(a) the resulting one-third amount is the budgeted state

transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be two-thirds of the schedule amount attributed to the transportation of special education pupils;

(b) the resulting one-third amount, except as provided for joint elementary districts in subsection (2)(e), is the budgeted county transportation reimbursement for elementary districts and must be financed by the basic county tax under the provisions of 20-9-334;

(c) the resulting one-third amount multiplied by 2 is the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5), except as provided for joint high school districts in subsection (2)(e), and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be one-third of the schedule amount attributed to the transportation of special education pupils;

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(b) or (2)(c) and, if the county financing obligations are reduced to zero, to reduce the

state financial obligation in subsection (2)(a); and

(e) the county revenue requirement for a joint district, after the application of any district money under subsection (2)(d), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act; plus

(b) anticipated payments from other districts for providing school bus transportation services for the district; plus

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child; plus

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4); plus

(e) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus

(f) gross proceeds taxes from coal under 15-23-703; plus

(g) net proceeds taxes for interim production and new production, as defined in 15-23-601, and local government

severance taxes on any other production occurring after December 31, 1988; plus

(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year ~~which~~ that may be used to finance the transportation fund; plus

(i) any ~~cash~~ fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year ~~cash~~ fund balance earmarked as the transportation fund ~~cash~~ operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year ~~cash~~ fund balance in the transportation fund. The ~~cash~~ operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount and, for an elementary district, adding the difference to the district obligation to finance one-third of the schedule amount as determined in subsection (2); and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The county levy requirement for the financing of the

county transportation reimbursement to high school districts is computed by adding all requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and the levies must be made by the county commissioners in accordance with 20-9-142."

Section 46. Section 20-10-145, MCA, is amended to read:

"20-10-145. State transportation reimbursement. (1) Any A district providing school bus transportation or individual transportation in accordance with the transportation law, board of public education transportation policy, and superintendent of public instruction transportation rules ~~shall~~ must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement ~~shall~~ may not exceed one-third of the reimbursement amounts established in ~~such sections~~ 20-10-141 and 20-10-142 or one-third of the district's transportation fund budget, whichever is smaller, and ~~shall~~ must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180

pupil-instruction days. In determining the amount of the state transportation reimbursement, ~~no~~ an amount claimed by a district ~~shall~~ may not be considered for reimbursement unless ~~such~~ the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

(2) Requests for the state transportation reimbursement ~~shall~~ must be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements ~~shall~~ must be routed by the district to the county superintendent, who after reviewing ~~such~~ the claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining their compliance with the transportation law, board of public education transportation policy, and the transportation rules of the superintendent of public instruction. After making any necessary adjustments to ~~such~~ the claims, ~~he--shall--cause--their--payment--by--ordering~~ the superintendent of public instruction shall order a disbursement from the state ~~moneys~~ money appropriated by the legislature of the state of Montana for the state transportation reimbursement. ~~Such~~ The payment of all the district's claims within one county ~~shall~~ must be made to the county treasurer of ~~such~~ the county, and the county superintendent shall apportion ~~such~~ the payment in

accordance with the apportionment order supplied by the superintendent of public instruction."

Section 47. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone company license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:

(a) ~~57%--in--fiscal--year--1990--and-50%-in-fiscal-year-1991,~~ 59.5% to the credit of the state general fund;

(b) ~~9.8%-in-fiscal-year-1990-and~~ 8.7% ~~in-fiscal-year-1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~33.2%--in-fiscal-year-1990-and-41.3%-in-fiscal-year-1991,~~ 31.8% to the credit of the state special revenue fund for state

equalization aid to the public schools of Montana as described in 20-9-343.

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

(a) ~~64%--in--fiscal-year-1990-and~~ 61% ~~in-fiscal-year-1991,~~ to the credit of the state general fund;

(b) ~~11%-in-fiscal-year-1990-and~~ 10.5% ~~in-fiscal-year-1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~25%-in-fiscal-year-1990-and~~ 28.5% ~~in-fiscal-year-1991,~~ to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(4) The state treasurer shall also deposit to the credit of the state general fund all money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund."

Section 48. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry -- assessment. (1) In the first 5 years after a construction permit is issued,

qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, ~~shall~~ must be taxed at 50% of their taxable value. Each year thereafter, the percentage ~~shall~~ must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property ~~shall~~ must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) ~~shall~~ must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in

subsection (1).

(3) The taxpayer ~~must~~ shall apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body ~~must~~ shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, 20-9-360, or otherwise required under state law."

Section 49. Section 20-15-404, MCA, is amended to read:

"**20-15-404. Trustees to adhere to certain other laws.** Unless the context clearly indicates otherwise, the trustees of a community college district shall adhere to:

(1) ~~adhere to~~ the teachers' retirement provisions of Title 19, chapter ~~47 as amended~~;

(2) ~~adhere to~~ the provisions of 20-1-201, 20-1-205, 20-1-211, and 20-1-212~~,~~ ~~as amended~~;

(3) ~~adhere to~~ the school property provisions of 20-6-604, 20-6-605, 20-6-621, 20-6-622, 20-6-624, 20-6-631, and 20-6-633 through 20-6-636~~,~~ ~~as amended~~;

(4) ~~adhere to~~ the adult education provisions of 20-7-701 through 20-7-713~~,~~ ~~as amended~~;

(5) ~~adhere to~~ the administration of finances provisions of 20-9-115, 20-9-134, ~~subsections (2), (3), (4), and (5) of 20-9-161, 20-9-163, 20-9-165,~~ 20-9-207, 20-9-208, 20-9-210, 20-9-215, 20-9-221 through 20-9-224, and 20-9-512~~,~~ ~~as amended~~;

(6) ~~adhere to~~ the school bond provisions of 20-9-401 through 20-9-412, 20-9-421 through 20-9-446, 20-9-451 through 20-9-456, and 20-9-461 through 20-9-465~~,~~ ~~as amended~~;

(7) ~~adhere to~~ the special purpose funds provisions of 20-9-502, 20-9-503, 20-9-507, 20-9-508, and 20-9-511~~,~~ ~~as amended~~;

(8) ~~adhere to~~ the educational cooperative agreements provisions of 20-9-701 through 20-9-704~~,~~ ~~as amended~~;

(9) ~~adhere to~~ the school elections provisions of Title 20, chapter 20~~,~~ ~~as amended~~;

(10) ~~adhere to~~ the students' rights provisions of 20-25-511 through 20-25-516~~,~~ ~~as amended~~; and

(11) ~~adhere to~~ the health provisions of 50-1-206."

Section 50. Approval to amend general fund budget for ensuing school fiscal year. (1) The trustees of a district may determine

that expenses from the following sources will need to be funded by the general fund budget in the ensuing school fiscal year:

(a) a budget amendment authorized under the provisions of 20-9-161 through 20-9-163;

(b) metal mines tax reserve fund authorized in 20-9-231;

(c) special education expenditures approved under the provisions of 20-9-321(3);

(d) transfer of services from or dissolution of a special education cooperative; and

(e) tuition receipts deposited in the miscellaneous programs fund.

(2) Whenever the trustees determine that expenses from the sources in subsection (1) will need to be funded by the general fund in the ensuing year, the trustees shall petition the superintendent of public instruction for approval to add the expenditures from any of the sources to the current year's general fund budget for the purposes of calculating the ensuing year's general fund budget limitation. The petition must set forth in writing the specific reasons for the request and a report of the actual expenditures.

(3) The superintendent of public instruction shall promptly approve or disapprove the petition for approval to add the expenditures from the sources in subsection (1) to the current year's general fund budget for the purposes of calculating the ensuing year's general fund budget.

Section 51. Definition of emergency for budgeting purposes. As used in this chapter, unless the context clearly indicates otherwise, the term "emergency" for the purpose of community college budgeting means:

(1) the destruction or impairment of any community college district property necessary to the maintenance of the district, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering the property unfit for its present use;

(2) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(3) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district; or

(4) any other reason of similar consequence that has been approved by the board of regents upon petition by the trustees of the district.

Section 52. Resolution for emergency budget -- petition to the board of regents. (1) Whenever the trustees of a community college district decide that an emergency exists, they may adopt a resolution proclaiming the emergency by a unanimous vote of all members present at any meeting for which each trustee has been given reasonable notice of the time and place of holding the meeting. The emergency resolution must also state the facts constituting the emergency, the estimated amount of money required to meet the emergency, the funds affected by the emergency, and

the time and place the board will meet for the purpose of considering and adopting an emergency budget for the funds for the current school fiscal year.

(2) If the trustees decide that an emergency exists for any reason other than the conditions specified in 20-9-161 (1) through (3), they shall petition the board of regents for permission to adopt a resolution of emergency. The petition must set forth in writing the reasons for the request, the district funds affected by the emergency, the estimated amount of money required to meet the emergency for each affected fund, the anticipated sources of financing for the emergency expenditures, and any other information required by the board of regents. The petition must be signed by each trustee.

(3) The board of regents shall promptly approve or disapprove the petition requesting approval to adopt a resolution of emergency. If the petition is approved, the trustees may adopt a resolution of emergency and take all other steps required for the adoption of an emergency budget. Approval of a petition by the board of regents authorizes the board of trustees to initiate emergency budget proceedings by resolution and does not relieve the trustees of the necessity of complying with the requirements of the emergency budgeting laws.

Section 53. Emergency budget limitation, preparation, and adoption procedures. (1) The meeting of the trustees of a community college district to consider and adopt an emergency

budget must be open to the public, and any taxpayer in the district has the right to appear and be heard. If at the meeting a majority of the trustees present find that an emergency exists, the trustees may make and adopt a preliminary emergency budget, on the regular budget form, setting forth fully the facts constituting the emergency. In adopting the preliminary emergency budget, the trustees may budget for any fund that was included on the final budget of the district for the current fiscal year. The budget must be itemized to show the amount appropriated for each item as required on the budget form.

(2) When the emergency is the result of increased enrollment, the maximum amount of the emergency budget for all funds must be determined by budget amendment.

(3) If another type of emergency occurs, the budget must be limited to the expenditures considered by the trustees to be reasonable and necessary to finance the conditions of the emergency and the preliminary emergency budget must include the details of the proposed expenditures.

(4) After a majority of the trustees have voted to adopt the emergency budget, it must be signed by the chairman of the trustees and the clerk of the district and copies must be sent to the county superintendent, the county treasurer, and the board of regents.

Section 54. **Determination of available financing -- fixing and levying property taxation for an emergency budget.** (1) After

the last day of the fiscal year for which an emergency budget has been adopted, the county treasurer shall determine the amount of the cash balance that is available to finance the emergency budget's outstanding warrants or registered warrants for each fund included on the emergency budget. The available amount of the cash balance of each fund must be determined by deducting from the county treasurer's year-end cash balance for the fund the outstanding warrants or registered warrants issued under the regularly adopted final budget for the fund and the cash reserve for the fund that the trustees have established, within the limitations of law, for the following fiscal year.

(2) The county treasurer shall prepare and deliver a statement on the financial status of each fund included on an emergency budget for a district that had an emergency budget during the preceding year to the board of county commissioners by the first Monday in August. The statement for each district emergency budget must include:

(a) the total amount of emergency warrants that are outstanding or registered against each fund of the district;

(b) the amount of the cash balance in each fund included on the emergency budget that is available to finance the outstanding warrants or registered warrants; and

(c) after consideration of the available money in subsection (2)(b), the additional amount of money that is required to finance the outstanding warrants or registered warrants and interest on

the warrants and that must be raised by a tax levy.

(3) For each fund of the emergency budget of each district requiring a tax levy as established by subsection (2)(c), the board of county commissioners shall, at the time all other district and county taxes are fixed and levied, levy a tax on the taxable property of each applicable district that will raise sufficient financing to pay the amount established by the county treasurer.

Section 55. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone company license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:

(a) ~~57%--in--fiscal--year--1990--and-50%-in-fiscal-year-1991,~~

62.8% to the credit of the state general fund;

(b) ~~9.0%-in-fiscal-year-1990-and~~ 8.7% ~~in-fiscal-year-1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~33.2%--in-fiscal-year-1990-and-41.3%-in-fiscal-year-1991,~~ 28.5% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

(a) ~~64%--in--fiscal-year-1990-and~~ 61% ~~in-fiscal-year-1991,~~ to the credit of the state general fund;

(b) ~~11%-in-fiscal-year-1990-and~~ 10.5% ~~in-fiscal-year-1991,~~ to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~25%-in-fiscal-year-1990-and~~ 28.5% ~~in-fiscal-year-1991,~~ to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(4) The state treasurer shall also deposit to the credit of the state general fund all money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund."

Section 56. Repealer. Sections 15-10-103, 20-9-111, and 20-9-167, MCA, are repealed.

Section 57. Codification instruction. (1) [Section 50] is intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to [section 50].

(2) [Sections 51 through 54] are intended to be codified as an integral part of Title 20, chapter 15, and the provisions of Title 20, chapter 15, apply to [sections 51 through 54].

Section 58. Coordination instruction. If House Bill No. 580 is passed and approved and if it contains a section amending 20-9-366, then the amendments to 20-9-366 in [this act] are void.

Section 59. Retroactive applicability. [Sections 1 through 46 and 48 through 50] apply retroactively, within the meaning of 1-2-109, to the school fiscal year beginning July 1, 1990.

Section 60. Effective date. (1) [Sections 1 through 46, 48 through 54, 56 through 59, and this section] are effective on passage and approval.

(2) [Section 47] is effective July 1, 1993.

(3) [Section 55] is effective July 1, 1991.